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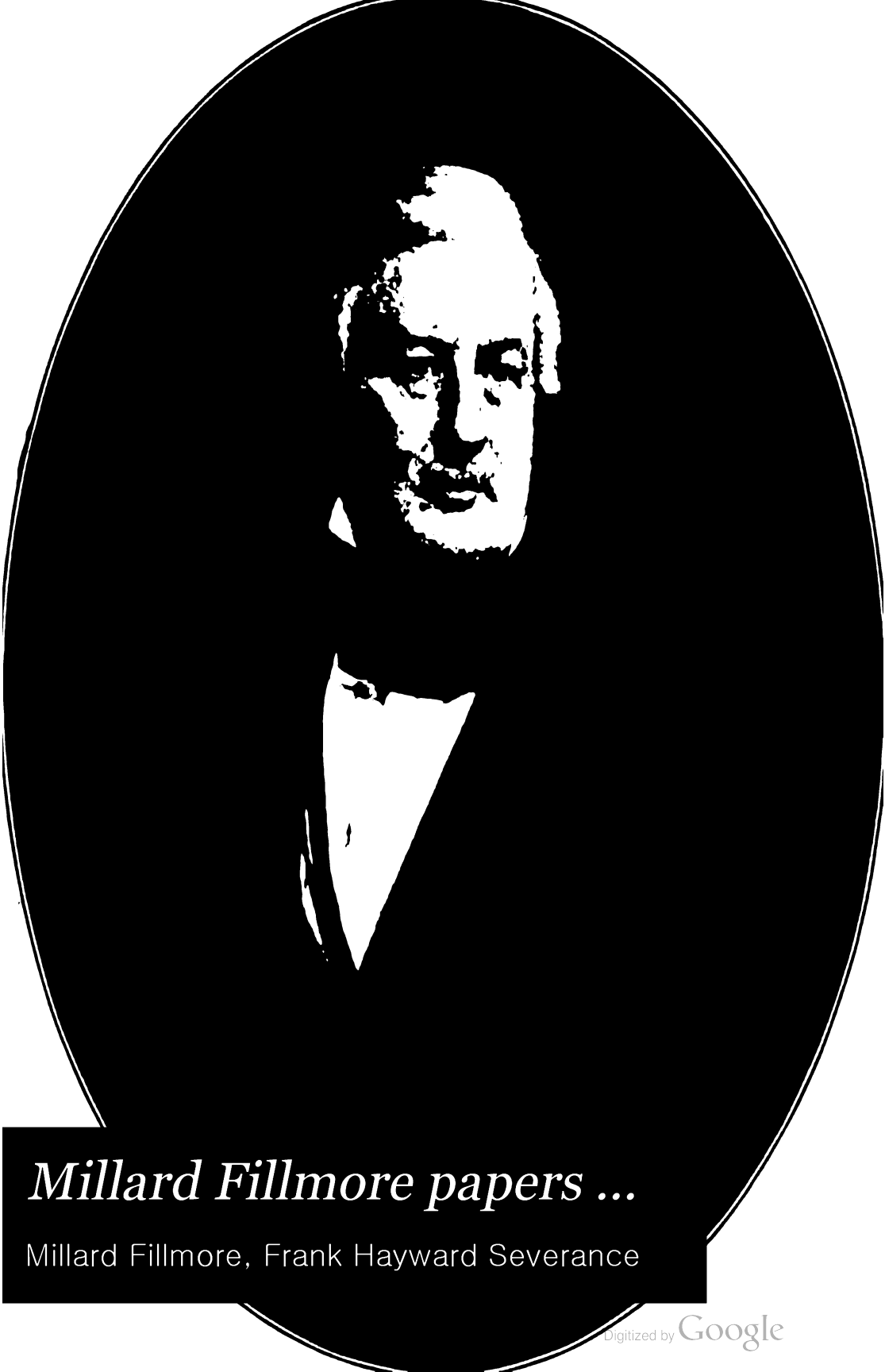

Millard Fillmore papers ...

Millard Fillmore, Frank Hayward Severance

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PUBLICATIONS

OF THE

BUFFALO HISTORICAL SOCIETY

VOLUME X

MILLARD FILLMORE PAPERS

VOLUME ONE

206 C

BUFFALO, NEW YORK:
PUBLISHED BY THE
BUFFALO HISTORICAL SOCIETY
1907

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VOLUME X

EDITED BY

FRANK H. SEVERANCE

SECRETARY OF THE SOCIETY

BUFFALO, NEW YORK

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1. Elected June 6, 1907, for the unexpired term of Joseph P. Dudley, died February 14, 1907.

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LIST OF THE

PRESIDENTS OF THE SOCIETY

FROM ITS ORGANIZATION TO THE PRESENT TIME.

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*Millard Fillmore,	1862 to 1867
*Henry W. Rogers,	1868
*Rev. Albert T. Chester, D. D.,	1869
*Orsamus H. Marshall,	1870
*Hon. Nathan K. Hall,	1871
*William H. Greene,	1872
*Orlando Allen,	1873
*Oliver G. Steele,	1874
*Hon. James Sheldon,	1875 and 1886
*William C. Bryant,	1876
*Capt. E. P. Dorr,	1877
Hon. William P. Letchworth,	1878
William H. H. Newman,	1879 and 1885
*Hon. Elias S. Hawley,	1880
*Hon. James M. Smith,	1881
*William Hodge,	1882
*William Dana Fobes,	1883 and 1884
*Emmor Haines,	1887
*James Tillinghast,	1888
*William K. Allen,	1889
*George S. Hazard,	1890 and 1892
*Joseph C. Greene, M. D.,	1891
*Julius H. Dawes,	1893
Andrew Langdon,	1894 to 1907

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*Deceased.

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INTRODUCTION

THE following pages contain such of the speeches, debates, official and private correspondence, and miscellaneous writings of Millard Fillmore, as the editor has been able to bring together, without undue postponement of this publication.

On the evening of December 15, 1905, the Rev. William Elliot Griffis, D. D., addressed the Buffalo Historical Society at one of its regular meetings, his theme being "Millard Fillmore and his part in the opening of Japan." In 1906, in revising his address for publication by the Buffalo Historical Society, Dr. Griffis announced his purpose of collecting material for a biography of Mr. Fillmore, and solicited the coöperation especially of those who had personally known him. Certain reminiscences were therefore prepared, with a view to including them as an appendix in the volume containing Dr. Griffis' paper. It was soon perceived, however, that the best service that could be rendered, preliminary to the preparation of any adequate biography of Millard Fillmore, was to bring together as fully as possible, his own words, as found in speeches, correspondence, official or personal utterance of whatever sort.

This, then, was the purpose which has brought about the present collection. The editor is under no illusion as to its completeness. So far as Mr. Fillmore's utterances in official life are concerned, there are for the most part official records to turn to, and these have been faithfully gleaned. But of his personal correspondence, there apparently exists nowhere any considerable collection; and though the editor has prosecuted his search in many places, and through the obliging courtesy of many individual owners, and many custodians of institutions, has brought together a considerable body of material, it is obviously impossible to assert that nothing of importance remains undiscovered.

Partisan abuse and misrepresentation have been the lot of every President of the United States since Washington; but no President has been more maligned in his time, or in some respects more misrepresented, both in his own day and in after years, than has Millard Fillmore. In the passion of contemporary criticism, this was but

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natural. But now the time has arrived when judgments may be revised, and the historian's quest for truth pursued in calm temper and impartial mood. Towards such an end, the documents and speeches here printed, as matter of convenient record, may prove a helpful contribution.

No adequate biography of Millard Fillmore has yet been written. Several books devoted to his career appeared in 1856, when he was the candidate of the American party. In all of these exist faults inherent in partisan work. Mr. Fillmore's span of life continued for eighteen years after they appeared, and although his public career was ended, he was by no means an indifferent or silent spectator of public affairs. To those who would know his character, his attitude during the Civil War, and his well-considered utterances on many topics in his later years, cannot be ignored.

The material gathered in these volumes will not in any wise take the place of the thorough, dispassionate study of Mr. Fillmore's part in American history which is his due. But it is a contribution—an indispensable contribution—toward such a study. It is fitting, too, that such a record should be made by the Buffalo Historical Society, which owes to his memory all the recognition it can give. He was largely instrumental in founding the Society, was its first president, and several times reëlected to that office; and was active in its behalf from the day it was formed until his death. He drew to it as well the interest and help of the representative men and women of Buffalo. A service in which he was especially active was to induce the elderly people of Western New York, those who had shared in the pioneer and war-time experiences of Buffalo in its days of beginning, to write down their recollections; and he thus began the manuscript collections which have since been drawn on with profit for the Publications of the Society.

Since his death, many articles formerly belonging to Mr. Fillmore, or his family, have come into the possession of the Society. Among these are his desk, an inkstand, a gold pen—one which he is known to have used for many years, and which may be the veritable one with which he penned his most important state papers, or signed the Fugitive Slave Act—and especially many of his books and some of his manuscripts.

The destruction of Mr. Fillmore's papers, by the executors of his son's estate, has been noted in connection with Dr. Griffis' paper. (Publications, Buffalo Historical Society, Vol. IX, p. 65.) The facts, briefly restated, are, that Millard Powers Fillmore, the President's only son, directed in his will that his executor "at the earliest

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practicable moment . . . burn or otherwise effectively destroy all correspondence or letters to or from my father, mother, sister or me," and this was done, soon after the son's death in 1889. President Fillmore's will contained no clause directing or even suggesting the destruction of his papers. On one occasion, when visited at his Buffalo home by Gen. James Grant Wilson, Mr. Fillmore had pointed to a cabinet of papers in his library and remarked to his visitor: "In those cases can be found every important letter and document which I received during my administration, and which will enable the future historian or biographer to prepare an authentic account of that period of our country's history." These papers included correspondence with Henry Clay, with Daniel Webster, Edward Everett and other members of Mr. Fillmore's Cabinet, and many other distinguished contemporaries; as well as copies of Mr. Fillmore's letters, on many topics of vital importance, with very many persons. So far as known, none of these papers now exist.

The loss of this material is in large measure irreparable to the cause of history. To do what it can, to offset the loss, the present collection is offered. And here is a striking thing: The more we find of Mr. Fillmore's correspondence, the less occasion can be discovered for its concealment or destruction. If ever a man held steadfast to the dictates of conscience, in the discharge of public duty, that man was Millard Fillmore. His memory and his reputation apparently have everything to gain, and nothing to lose, by the fullest possible publication of his views, especially as expressed in his confidential correspondence.

Mr. Fillmore's autobiography of his early years, written in his old age and committed under seal to the keeping of the Buffalo Historical Society until he should have passed away, has been deemed the most fitting introduction for this collection. There is no obvious reason why it should have been made a sealed document, except that the writer had reached a time of life when publicity was shunned rather than courted. The narrative was penned in the same spirit that had impelled him to solicit similar memoirs from others, that certain facts connected with Buffalo's early years might not be lost. But Mr. Fillmore's sketch of himself virtually ends with his entrance upon public life. Had he chosen to continue his memoirs, through his terms of service in the New York Legislature and in Congress, how useful a record would they prove to the student of those times! But something of his part in affairs, and a great deal of his charac-

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teristics, may be gathered from the record of his participation in legislation.

By what process, among Judge Wood's law-books, was awakened the ambition for a public career, or to what suggestion was due the impulse that made the ill-trained country boy strive for distinction, can no more be specified than any other subtle manifestation of the laws of growth. Ill-trained he surely was; with certain deficiencies of education which he never wholly overcame. But that there was "something to him," even as a youth, is equally certain. It is not every boy of twenty-one who feels qualified to make the Fourth of July speech in his village; but such was young Fillmore's first public address, at the Independence Day celebration in Montville in 1821. No record of this speech is known to exist; and although Mr. Fillmore's after-estimate of it was that it "had no merit,"[1] the effort is still of the sort to prejudice favorably the impartial student of his career.

Certain incidents connected with his early years of school-teaching, when he took his pay in wheat, are preserved in his letters; but there is little to build on until after his removal to Buffalo, on Mayday, 1830. He had already served in the Legislature, if not with distinction, at least with discretion, intelligence and fidelity. It was entirely natural that he should be called on in December, 1831, as one of a committee of eighteen residents of Buffalo, who were charged with the important commission of drawing up a new charter for Buffalo, or amending the old one. The result of their labors was an application to the Legislature for an Act of Incorporation, which became a law April 20, 1832, and signalized the birth of Buffalo as a city.

Both in Congress and out of it, in these active early years, Mr. Fillmore was industrious in promoting the welfare of his home city. Scarcely a public enterprise was afoot, but his name is found in connection with it. Note has been made of his share in drafting the first city charter. In those ante-railway days, the harbor was Buffalo's one great interest and its improvement was a perpetual aim. In the House, January 31, 1835, on motion of Mr. Fillmore, it was

Resolved, That the Committee on Roads and Canals be instructed to enquire into the expediency of causing a survey to be made of the best mode of enlarging and improving the harbor of Buffalo for the reception and security of vessels navigating Lake Erie.

1. *See* the Autobiography in this volume, p. 13.

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A great question in Buffalo in 1835 was the enlargement of the Erie Canal. A Citizens' Meeting was held at the Court House, September 30th, at which resolutions endorsing the projected enlargement were adopted; and a standing committee, of which "Millerd" Fillmore was a member, was appointed to act as a committee of correspondence, "to adopt and use the most efficient means in behalf of the citizens of Buffalo, to promote the objects of this meeting."

Later in the same year—in December—another meeting of Buffalo citizens adopted resolutions remonstrating against any extension of the city limits and providing committees to consider and report on various local matters. Mr. Fillmore was a member of a committee to which was referred "the present and contemplated obstructions in the Niagara river, and the connection of the harbor of Buffalo creek with Black Rock," his associates on the committee being Samuel Wilkeson, chairman, Charles Townsend, P. A. Barker and R. B. Heacock.

Mr. Fillmore's name—this time printed "Filmore"—is one of a score or more appended to a call for a "publick meeting at the Farmer's Hotel" on the evening of December 3, 1835, "to discuss the measures adopted at a meeting of a few of our citizens on Saturday evening last, and other objects and movements connected therewith, which are calculated to divert our business from its natural channel, or unite our DESTINY with, or transfer our COMMERCE to Black Rock." A poster proclaiming this "Crisis," with the signers' names in bold type, is one of the relics preserved by the Buffalo Historical Society.

In yet other ways Mr. Fillmore served Buffalo. In April, 1835, he was appointed by the Common Council "to assess $2200 on property benefited by working and grading Delaware street, from Tupper street to North street"; also, at various times, to assess $300 on property benefited "by working and gravelling East Genesee street, from Main street to the easterly bounds of the city"; again, to assess $680 on Oak, from Genesee to Goodell; $210 for grading Commercial street, widening Tan alley, Tupper street and opening Norton street, opening Tupper and Washington streets, etc. There is no question as to his intimate identification with the growing town.

A more notable service was in connection with the famous Rathbun failure, some note of which will be found on a subsequent page. In August, 1836, Benjamin Rathbun assigned all of his large property to Hiram Pratt, Lewis F. Allen, Joseph Clary, Thomas C. Love and Millard Fillmore. The schedules of Rathbun's real estate showed a valuation of $2,237,150, and of his personal property of

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$854,500. It was all vastly over-estimated, the personal property finally realizing $115,000. Messrs. Fillmore and Love resigned as assignees before the estate was settled. Mr. Fillmore's sketch of Joseph Clary, in pages following, shows how heavy the burden of the Rathbun interests fell on that worthy and devoted citizen.

During his last year in the Legislature Mr. Fillmore had originated the tax law to tax debts due to non-resident debtors. He had the bill reported and made every exertion to bring it before the Assembly, but as it came from the Committee of Ways and Means, which had charge of all financial matters, it was reported too late to receive the action of the House that session. The next year the subject was renewed and the same bill became a law. The Buffalo *Commercial Advertiser* of October 25, 1836, commenting on it, said: "It divided the burdens of taxation with the people of this county, and gave them the only substantial relief they have felt from this load of evils."

On March 30, 1836, a convention was held in Buffalo, made up of delegates from twenty-five towns in Erie, Chautauqua, Genesee and Niagara counties, comprised in the Holland Purchase, "to resist the unjust oppression of the late purchasers of the Holland Company, in exacting an additional price, beyond that expressed in the contract, from all those unfortunate settlers on the Holland Purchase who are unable to make prompt payment." Jacob LeRoy and Heman J. Redfield had acquired certain rights of the Holland Land Company, and it was against their attempts to enforce contracts that the settlers rebelled. On March 5th, of this same year, a "large and respectable meeting" of settlers had been held at John Dunham's tavern in the town of Clarence, at which Millard Fillmore and four others were appointed a committee to arrange for a further meeting. Mr. Fillmore evidently wrote the call for that meeting—at any rate it "sounds like him"—and his name stands first of the five which were signed to it. It was published in all the newspapers of the Holland Purchase, and the above quotation is a part of it. The second meeting, as above stated, was held in Buffalo. Dyre Tillinghast presided, Millard Fillmore was one of the eighteen Buffalo delegates, and drafted and presented the following, one of a long series of resolutions adopted by the meeting:

Resolved, That the law taxing debts due to non-residents, is in the opinion of this convention, a just and equitable law, and should by no means be repealed, and that members of Assembly and Sena-

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tors from the western part of New York, be respectfully requested to oppose any attempt to repeal said law.

That his service in the Legislature had drawn especial attention to him is shown repeatedly in the files of the State papers of that period. In 1836 it had become a saying—so wrote a correspondent of the Buffalo *Commercial Advertiser*—"Fillmore says it's right—we'll go it."

In the old files of Buffalo newspapers some trace is found both of Mr. Fillmore's early private business and his political advancement. In the 30's he was a director of the old Buffalo Mutual Fire Insurance Company; and in 1836, in addition to his various interests, he added life insurance, as the following advertisement (*Commercial Advertiser*, February 13, 1836) testifies:

LIFE INSURANCE.—The subscriber has been appointed Agent for Life Insurance, by the New York Life Insurance and Trust Company, and will effect Insurance upon Lives with said Company, on application at his office.

All persons having running policies with said Company, through the agency of H. Morris, Esq., the former Agent in this city, upon which premiums are now due, are requested to pay the same at the law office of Fillmore, Hall & Haven, No. 304 Main street, Buffalo.

M. FILLMORE.

In the meantime, we find him sustaining many pleasant and honorable relations in his home community. On September 2, 1840, Mr. Fillmore was chairman of a meeting of the Erie County bar which adopted resolutions thanking the Hon. Philo Gridley "for the dignified and impartial manner in which he has presided at the present Circuit in this county." Judge Gridley had attended the Erie Circuit to dispose of business which had accumulated during an illness of Judge Dayton, and had disposed of a calendar of 279 cases, "most of which were seriously litigated," adds Mr. Fillmore in the resolutions which bear his signature. Mr. Fillmore named a committee who should invite the judge "to partake of a public dinner," but this honor was declined.

In Buffalo in the early '40's the Mechanics' Association was an intellectual center; and here we find Mr. Fillmore, on the evening of December 29, 1843, lecturing on "Promissory Notes and Bills of Exchange"—hardly a sensational subject, but no doubt practical. On December 29, 1845, and January 7, 1846, he lectured on "The General Powers taken from the States and vested in the United States." No record or report of these addresses is known. Mr. Fillmore was a member of the Buffalo Horticultural Society, and in

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1845, at its annual exhibition, a member of the committee on flowers; but that he had any special taste for flowers is not known. On June 24, 1845, with other citizens, he signed a call for a public meeting at the Court House, "to take action on the death of General Jackson"; and about this time we find new evidences of his business interests. In July, 1845, with others, he signed a public card recommending the Great Western Railroad securities as good investment. In October of that year he was one of a committee to promote the affairs of the Niagara & Detroit Rivers Railroad projected "from Bertie on the Niagara to Windsor on the Detroit."

He was in earlier years, a devoted worker for his political party. At the "Harrison" State convention, held at Albany, February 4, 1836, Millard Fillmore and Lewis F. Allen were delegates from Erie county, and Mr. Fillmore was a vice-president of the convention. He was one of the committee delegated (February, 1836) to notify Francis Granger of his nomination for Vice-President.

In November, 1837, he headed a letter to Squire S. Case, asking him to withdraw his name from the canvass as a candidate for Member of Assembly. Mr. Fillmore's intervention was in the interest of an undivided Whig vote. Now, after ten years of strife, the Whig party was dominant, and carried the State. At the Whig celebration in Aurora, November 22d, the following toast was drunk: "Millard Fillmore, our Representative in Congress. The favorite son of Western New York. His abilities and integrity ought to and will be known and felt throughout the whole of the Empire State."

Mr. Fillmore was chosen, August 30, 1838, a delegate to the Whig State convention. It met at Utica, September 12th, Hugh Maxwell presiding. Mr. Fillmore was made a member of the committee on resolutions and addresses. William H. Seward was nominated for Governor, and "the convention was addressed thrillingly"[1] by Millard Fillmore; but no detailed report of his speech is found.

On October 11th of that year Mr. Fillmore was renominated by the Democratic Whig convention for Representative and on November 6th was reëlected, receiving 5414 votes against 2831 for George P. Barker. The head of the ticket, Seward, received in the same district (Erie county) but 3448 votes. There was no question as to Mr. Fillmore's popularity. He was supported for Speaker in the Whig caucus preliminary to the organization of the House at the extra session of 1841, by the Whigs of the New York delegation,

1. Albany *Evening Journal.*

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and received the next highest number of votes to John White of Kentucky, who was nominated and elected Speaker. Following the practice usual in such cases, Mr. Fillmore was given the chairmanship of the Finance Committee.

In June, 1842, Clay for President and Fillmore for Vice-President was a strongly-advocated ticket. The Poughkeepsie *Eagle*, June 18th, "spread this banner to the breeze," using Mr. Fillmore's name without consulting him, and commending him for the certainty of his principles, and his political resemblance to Mr. Clay.

At the great Whig meeting in New York City, October 6, 1842, the following was adopted:

Resolved, That Millard Fillmore and his Whig colleagues in Congress, by the ability, fidelity and zeal, with which they have sustained and promoted the true interests of the country, have richly merited the commendation which their constituents are pronouncing, of "Well done, good and faithful servants!" and their honest, patient and ultimately successful struggles against extensive factiousness and unparalleled treachery will long be remembered with gratitude by the people.

The Whigs of Buffalo naturally felt called upon to express their appreciation of Mr. Fillmore's efforts in behalf of a revised tariff. On the evening of September 13, 1842, a great meeting was held in the Court House Park—the Court House itself proving too small for the occasion. Complimentary resolutions were adopted and a committee sent to inform Mr. Fillmore and invite his attendance at the meeting. In response, says the *Commercial Advertiser's* report of the occasion, "Mr. Fillmore rose and addressed the meeting in a masterly manner upwards of an hour, giving with great clearness and ability the history of the late session, and lucidly explaining the many and great obstacles which the majority had to encounter from the combined action of the Loco Focos and the peculiar friends of the President, and the President's himself, in their efforts to enact such laws as were imperiously demanded by the necessities of the country." No other report of Mr. Fillmore's address on this occasion is found. Before adjournment, the meeting adopted a long series of resolutions, thanking Mr. Fillmore and his associates for their services in the passage of the tariff law; condemning President Tyler as "vacillating and dishonest, incompetent as a statesman, unfaithful as a politician, and false and dishonest as a man and gentleman"; and the assemblage wound up, as was frequently the case at this period, with enthusiastic cheers for Fillmore and Henry Clay.

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At the Erie County Whig convention in Buffalo, October 6, 1842, Mr. Fillmore was renominated and acknowledged the honor by addressing the convention at length, thanking them for their renewed expression of confidence, but appealing to his friends in phrases that could not be misunderstood, to consult his wishes and excuse him from being a candidate. While he was, therefore, obviously, the first choice of the convention of '42, his name was not voted on, and William A. Moseley received a unanimous nomination as his successor.

Not being himself a candidate in the ensuing campaign, Mr. Fillmore felt at liberty to share in the work as a speaker. There are references in the newspapers of the time to numerous speeches made at this period in Buffalo; at Alden, on November 1st, where he is said to have addressed the meeting for nearly three hours; and at other county towns, where he gave such help to the ticket as no one but him could give. But for the most part, no verbatim record of these speeches is preserved.

In November, 1843, the Buffalo *Commercial Advertiser* (Whig) put up the ticket of "Clay and Fillmore," "subject to the decision of the National convention." In January, 1844, the Clay Club of Buffalo was formed, which adopted an elaborate constitution and pledged its support to the Clay-Fillmore ticket. Similar clubs in other towns did the same; and the Democratic Whig General Committee of New York City adopted resolutions strongly endorsing Mr. Fillmore for Vice-President. Though defeated in the convention he worked loyally for the success of the ticket.

In September, 1844, he was nominated by the Whig New York State convention for Governor. He was regarded as a strong candidate. It was the Albany *Evening Journal* which at the close of the convention, formulated a eulogy of Mr. Fillmore, with unqualified praise of his career and character, which was reprinted and echoed in every Whig newspaper of the country. "Mr. Fillmore," wrote Mr. Weed on this occasion, "has secured this high place in the regard of his fellow-citizens by a faithful devotion of his time and talents really and truly to their service. He has been some fourteen years in the legislatures of the State and Union, where his voice and votes have ever been heard and recorded for right measures"—and much more in the same strain. But Mr. Fillmore was defeated, receiving a total vote of 231,057, against 241,090 for Silas Wright.

In September, 1846, although he had publicly declared his intention not to become a candidate again, his friends put forward his

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name for the same office. He had not been before the public for two years, having devoted himself wholly in this period to the practice of his profession; but at the Utica convention, on September 23d, 1846, on the first informal ballot for Governor, Mr. Fillmore received 65 votes to 44 for John Young, of Livingston county. It was a splendid compliment, since it must have been known in the convention that Mr. Fillmore's mind was thoroughly made up. Had he chosen to reënter the field, it seems probable that he could have had the nomination, which, in that year, would have been equivalent to an election. Refusing, however, to be considered a candidate, his name was dropped and Mr. Young was nominated on the third ballot. On October 1st, when the Whigs of Buffalo assembled in the Court House to ratify the State ticket, Mr. Fillmore was foremost in speaking in Mr. Young's behalf and in giving his support to the ticket. In the resolutions adopted by this meeting occurs the following:

Resolved, That we have an abiding confidence in our distinguished fellow-citizen Millard Fillmore; we believe he is fitted to add luster to any office in the gift of the people; we honor him as father of the tariff of '42, and we believe that we can not now show him a greater kindness than by joining with him in a hearty support of John Young, his distinguished Whig colleague in the ever memorable and patriotic Twenty-seventh Congress.

Before the long list of resolutions, of which the foregoing is a part, was submitted to the meeting for adoption, Mr. Fillmore spoke at length. The only known report of these remarks is the following synopsis printed in the Buffalo *Commercial Advertiser* of October 2d:

Before the adoption of the resolutions, Hon. Millard Fillmore took occasion to say that he gave his entire concurrence in the nominations which had been made, and that they should receive his hearty support. Feeling that he had devoted himself long enough to public life, and that he must either relinquish his profession or his political position, he had chosen the latter and had steadily declined being a candidate for the office of Governor, and had consequently felt it his duty so to state in the public prints.

He heartily rejoiced in the nominations which had been made, and would ask every friend who heard him or to whom his words might extend, to join with him in the most strenuous exertions to secure their triumphant election. Mr. Fillmore than reviewed the acts of the General Government, remarking upon the fulfillment of the predictions made at the last presidential campaign in case Henry Clay were defeated, and then asked who was desirous for a continuance of the present state of things. The time he thought was come for a glorious change. Even dark New Hampshire, the last resting

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place of Loco Focoism, had been illuminated with Whig lights; it was burnt again in Maine and Indiana, and New York must not be behind her to guide our beloved State from the darkness which now surrounds her into the noon-day of a Whig triumph.

Mr. Fillmore had known Mr. Young in the public councils of the state and nation. He had ample opportunity to know him in the trying period of the memorable Whig Congress which enacted the tariff of '42, and he knew no man more worthy of confidence. He trusted in his purity—he confided in his patriotism. After a few remarks in relation to the Harbor Veto, in which he stated that in his opinion the Constitution was not a salt water animal, but could live as well in fresh as in salt water, and was worthy of respect by sea and land, Mr. Fillmore took his seat amid prolonged expressions of gratification from his hearers. The resolutions were then unanimously adopted.

On May 19, 1847, the Whigs of New York State held a convention at Syracuse for the nomination of four judges and a clerk of the Court of Appeals, Mr. Fillmore was present as a delegate, was a member of the committee on conference, and took an active part in the proceedings. In the informal ballot for candidate for judge, Mr. Fillmore received eight votes, although, apparently, it was known that his name was not seriously to be considered. The convention chose Messrs. Frederick Whittlesey, Marcus T. Reynolds, B. Davis Noxon and Daniel Lord, Mr. Lord subsequently declining to accept, and Ambrose L. Jordon being nominated instead.

Mr. Fillmore entered Congress in 1833, serving one term; then was out one term; then again elected and served six years, making eight in all. He was generally in the minority—and, of course, chairman of no committee—until 1841, when the memorable Twenty-seventh Congress assembled, having a large Whig majority. In this Congress, Mr. Fillmore was made chairman of the House Committee of Ways and Means, thus becoming leader of the House, a position in which, all things considered, he gained, if not his highest honors, at least his highest regard in the opinions of all of his countrymen. Later, when fortune carried him still higher, he enjoyed no such universal esteem as was his when, at the close of the famous Twenty-seventh Congress, he declined a reëlection and proposed to retire from public life.

The session of 1833-34 has always been cited as the one in which that system of politics known as Jacksonism, was fully developed. During his first term General Jackson, and those who shaped the policy of the Administration, pursued a comparatively cautious course. But the ordeal of the election of 1832 having been passed,

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the mask was thrown off. The reëlection of General Jackson was construed into a popular approval of all his acts.

It was in the stormy session of 1833-34, immediately succeeding the removal of the deposits, that Mr. Fillmore took his seat. In those days the business of the House was conducted and debates were led by old and experienced members; new ones, unless they enjoyed an exceptional reputation, rarely taking an active or conspicuous part. Little chance, therefore, was afforded Mr. Fillmore, a member of the opposition, of displaying his abilities. By the time his second term was entered upon, Jacksonism and the pet bank system, had in the march of "progressive Democracy" given place to Van Burenism and the Sub-Treasury. It was but another step toward the practical repudiation of old Republican principles, and an advance to the Loco-Focoism of the later '40's. In this Congress, Mr. Fillmore was assigned to a place on the Elections Committee. It was this post that brought him into prominence, both in the House and before the country at large in connection with the famous New Jersey contested election cases.

On this, and one or two other long-dead issues, the following pages do not undertake to record all of Mr. Fillmore's utterances. In the New Jersey case, for example, the minority report to the House and the "Address to the country" cover substantially the same ground, and the latter only is here printed.[1] On other topics, too, Mr. Fillmore's desultory remarks are sometimes omitted, especially on purely routine or tactical points. But whenever he spoke on leading issues, or based his remarks on broad principles of right or advantage to the country, an abstract, more or less full, is given. His formal speeches are printed as complete as possible, except as to the introduction of quotations, statistical exhibits, etc. It should be borne in mind, however, that the only existing reports of many of these speeches and debates, are exceedingly imperfect. They have been drawn from the official record of Congress—in Mr. Fillmore's day, the *Globe*—from Gales & Seaton's "Register of Debates in Congress," and, in one or two cases, from subsequent revised publication in pamphlet form. These are noted in the bibliographical list appended.

The especial design of the editor has been to give Mr. Fillmore's words on important issues, where they are preserved; and to make apparent his part in legislation, and his motives of conduct.

From the beginning of his public career he made the Constitution of the United States his sole guide in all matters which could

1. *See* pp. 148, 151 *et seq.*

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be referred to it or regulated by it. If a thing were not clearly constitutional, he could oppose it with a pertinacity which was none the less resolute, because always courteous and considerate of the viewpoint of others and the rights even of his most implacable opponents.

One of the measures, relatively of minor importance, which received Mr. Fillmore's attention was a bill "to establish the Western [*i. e.* Indian] Territory." Mr. Fillmore was disposed to support the measure, but did not regard it as properly an act of legislation, as it only made proposals to the Indians, which they might accept or reject. In fact, it approached nearer to an act of the treaty-making power, although in a form which would not, as other treaties did, require the assent of two-thirds of the Senate for its confirmation.[1] Prior to this (June 5) Mr. Fillmore had taken a slight part in debate on bills in relation to the territories of Michigan, Arkansas and Florida; he had opposed a bill of sundry citizens of Arkansas, on the ground that it encouraged squatters to violate the law and invade the public lands; and had discussed the repeal of certain acts of the legislative council of Florida. It was not however until the disturbances of the Upper Canada Rebellion brought his own home region suddenly into national notice, that his advocacy of measures began to have new ardor and weight. He introduced resolution after resolution, calling on the President for information, calling on the Committee on Military Affairs to proceed at once with the fortification of the Northern frontier. On December 15, 1837, he had written to Brig.-Gen. Charles Gratiot, chief engineer of the Army, enclosing a communication from the Buffalo Common Council, relative to the exposed condition of the harbor of that city in consequence of damage done by a recent storm; and as a result of his representations, a survey and estimates for repairs were ordered. A few weeks later, we find him presenting to the House a memorial which the citizens of Buffalo had adopted, February 12, 1838, under the stress of the Caroline excitement; and so effective was his plea for better protection on the frontier, that by June 13th the War Department reported its determination to place an armed steamboat on Lake Erie. In 1842 he personally urged before the Navy Board that an iron vessel for the lakes be built at Buffalo. The outcome of this was the construction of the man-of-war Michigan, not at Buffalo, indeed, but at Pittsburg, followed by an arduous transport in sections to Cleveland, and thence by steamer

1. Remarks in the House, June 25, 1834. The bill was lost.

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to Erie, where she was rebuilt, and in 1843 launched on her long term of service.

The New Jersey contested election cases have been referred to. With the exception of his share in tariff revision, nothing during Mr. Fillmore's terms in Congress received more attention from him, or brought him more prominently before the country, than these famous cases. At the opening of the Twenty-sixth Congress, in which New Jersey was entitled to six members of the House of Representatives, it was found that five of the six had certificates of election from the Governor of the State, but that the validity of their election was questioned, and the Clerk of the House declined to call their names as members until he knew the pleasure of the House. Had the political balance of that body been less nearly even, no doubt the Governor's certificates would have been satisfactory proof of election. The Whigs claimed that these certificates should be regarded as conclusive proof of election until the House was regularly organized. The Democrats contended that the House should decide the question before proceeding to elect a Speaker. John Quincy Adams was chosen temporary chairman and two weeks were consumed in discussion as to whether the New Jersey members were entitled to their seats. At the end of this period, a Speaker having been chosen, the discussion of the New Jersey contested seats was resumed and occupied the greater part of the time of the House for some weeks, so that the standing committees were not named until near the close of December. Mr. Fillmore was made a member of the Committee of Elections, which owing to the contest, at once became for the time being the most important committee of the House. With his colleagues he worked over this case "from seven to ten hours a day in committee." The investigation ran on until the middle of March, 1840. But a majority of the committee, as well as of the House, were Democrats. Mr. Fillmore in the House, on February 19th, spoke at length on the history of the case and of its consideration by the committee. On reading (or attempting to read), on a motion to print, a resolution adopted in committee, but not reported to the House, he was called to order, and prevented from completing his remarks. The decision of the Chair being appealed from, Mr. Fillmore persisted in his right to the floor, but on vote of the House, the Chair was sustained, ruling that Mr. Fillmore could not read the resolution. Mr. Fillmore still claimed the floor, and after a hot contention gained leave to explain the situation of the question on which he was called to order. He claimed that although he might not read the resolution, he was

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entitled to continue his remarks. The Chair ruled that he might not, except by permission of the House. Mr. Fillmore retorted that he would never submit his right to be heard on that floor and the right of his constituents, to the vote of a majority. "He spoke by right and not by permission." The House, however, saw it otherwise. Being thus prevented from reading a minority report, and silenced while attempting to make a speech, Mr. Fillmore's indignation at what he felt to be unjust and unlawful treatment led him to address a long letter to his constituents, in which he argued all the questions involved in the New Jersey case. That letter, with an abstract of his remarks during the debate covering several days, will be found in their place in the following pages. The tenacity and ability with which he fought for his party and position in this case did much towards winning him the leadership of the succeeding Congress.

Mr. Fillmore's speech of January 15, 1842, against the arbitrary, unparliamentary and oppressive measures resorted to by those in favor of repealing the Bankrupt Law, brought him more prominently than ever before to the attention of the country. The following passage from the report of the speech by the Washington correspondent of the New York *American*, well states the estimate which many friendly minds formed of him at that period:

> One of the finest passages which I ever witnessed in a legislative hall, was when Fillmore, on Cushing's appeal from the Speaker's decision, that a bare majority might peremptorily order an immediate report of the repeal, rose in the midst of an uproar which would have borne down many a bold man, and in a tone that hushed the tempest to a breath, and rang through the vast hall with a thrill that seemed to reach every heart, appealed to even the precedent of the odious New Jersey case, and shamed the Whigs of the majority by showing them that in that case, the only one on record of a peremptory order "to report forthwith," the decencies of debate and the rights of a minority were better respected than now.
>
> He rose above himself and gave evidence of powers of a higher order than I believed him to possess. Dignified, cool, self-possessed, conciliating, clear, concise and indefatigable, he always was; but now he shone out in a majestic, high-toned eloquence, that astonished and even convinced. The vote was 101 for the decision, 98 against it. On all other questions the votes stood about 115 to 88. "Fillmore," as some one remarked at the moment in my hearing, "is a great man; but it takes a strong pressure to make him show out his highest powers."

On February 13, 1843, President Tyler sent a special message to Congress, calling upon that body to provide means against an alleged probable deficiency of revenue from the current year. It

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was understood at the time that the intent of the message was to pave the way for a special session of Congress. The message was referred to the Committee of Ways and Means, and Mr. Fillmore, chairman of that committee, promptly made a report, showing conclusively that, unless there was a wide departure from the practice of preceding Administrations, there would be a large surplus in the Treasury on the first day of January, 1844. The balance of receipts over expenditures on that day, as estimated by Mr. Fillmore, would exceed five millions. The Whigs did not fail to use the incident to ridicule the President for having formally proclaimed the Government to be on the verge of bankruptcy.

A curious issue of this campaign was the persistent—and in the outcome, successful—attack made on Mr. Fillmore by the Loco Focos. They resorted to a method of attack which has been used more than once since—that of attempting to represent a candidate as the tool or ally of the rich, and as conspiring with them against the interests of the poor. In 1844, this stock recourse of demogogism assumed the form of gross misrepresentation. Mr. Fillmore was charged with being in favor of protecting the products of wealthy manufacturers, and at the same time of taxing "the poor man's tea and coffee." It was in vain that Mr. Fillmore's friends, and the press of his party, called attention to his record on the tariff. That record may be in the main gathered from Mr. Fillmore's words in the following pages, but some note here of the situation may be helpful.

In the summer of 1842 it became apparent that the National treasury was virtually bankrupt. It owed more than it had resources for paying, and existing conditions made the situation daily worse. It was Mr. Fillmore, for the House Ways and Means committee, who reported a tariff bill to meet the emergency. In this bill, a duty on tea and coffee was proposed. The bill, in support of which Mr. Fillmore made his famous speech of June 9, 1842 (pp. 196-235), was vetoed by the President. Subsequently a tariff bill was passed, admitting tea and coffee free, although the duty on those articles was by no means a party issue, many Loco Focos favoring their taxation. At the next session of Congress a message was received from the President, urging the necessity of further provisions for revenue; and in an accompanying letter from the Secretary of the Treasury, tea and coffee were among the articles suggested for taxation. In the report made by Mr. Fillmore on this message and the Secretary's letter, he said:

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The committee never have nor will they now shrink from any responsibility incident to their situation. As an evidence of this, it is proper to remark that they have twice recommended a duty on these articles, and twice has the House of Representatives fearlessly sustained them in this recommendation, and passed a bill imposing the duty. And this self-sacrificing devotion, on the part of the House, to what they deemed the wants of the Treasury and the good of the country, under the peculiar circumstances of discouragement and embarrassment, is a strong proof that the same body might be confidently relied upon again to do the same act whenever they are convinced that the good of their country requires it. But both of these patriotic efforts proved abortive—the first by the refusal of the Senate to concur, and the latter by the veto of the President. At that time the House doubtless entertained the same sentiment that the President has expressed in his recent message, that the "proper objects of taxation are peculiarly within the discretion of the Legislature." They believed that the good of the country, that the welfare of a suffering community, would be best promoted by putting a duty on tea and coffee, and distributing the proceeds of the public lands to the several States. But the President, differing in opinion with Congress, refused to submit this matter to legislative discretion, and by his veto prevented the tariff bill from passing, until Congress, to save the honor and credit of the nation, was compelled to yield up the proceeds of the public lands to the Treasury of the United States by passing a law which suspended the distribution. But they did not then consider that it was necessary for an economical administration of the general Government that the proceeds of the public lands should go into the public Treasury, and, in addition thereto, that a duty should be imposed on tea and coffee. And they still hope that a judicious retrenchment, in which Congress has been actively engaged, may save the people, who are suffering almost beyond endurance, from any increased burdens of taxation. The committee will, however, proceed to examine the state of the Treasury, and if the result shall show that this additional tax will be necessary to maintain the credit of the country, they will not hesitate to recommend its adoption by the House, in the full confidence that the House, when equally convinced, will, as it has done heretofore, fearlessly and patriotically meet the emergency and take the responsibility.

It was found that no further tax was necessary; the tariff as fixed at that time proved adequate, and under its provisions, once they were fairly in force, trade and manufacturing flourished.

To his duties as State Comptroller, regarding which he had in correspondence expressed doubts as to his fitness, Mr. Fillmore brought habits and qualifications which would appear to have been an ideal equipment for his task. His experience in Congress had strengthened his natural aptitude for financial affairs; caution, his

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most pronounced trait, served him admirably in these duties; and his characteristic industry, love of system, and honest devotion to the good of the Commonwealth, still further contributed to make his administration of the office conspicuous for economy and efficiency. That portion of his only annual report which is printed in the following pages, will be found a valuable historical treatise on the systems of banking in vogue in New York State for well nigh half a century, with practical suggestions for better methods.

One conspicuous service performed by Mr. Fillmore as Comptroller was in the handling of the canal funds. In 1848, the joint canal committees of the Assembly and Senate recommended that $1,258,653 be appropriated to the prosecution of work that year on the Erie, Genesee and Black River canals. It was shown that of this amount, $489,000 was obtained by a decision of Mr. Fillmore that an erroneous withdrawal of the amount had been made by a former administration, from the sum set apart for public works. "It is the difference," said an Albany correspondent of the New York *Courier and Enquirer*, "in construing the Constitution. The enlightened and liberal policy pursued by Mr. Fillmore in this case will be appreciated by the people of all sections of our State, for they will see in the rapid progress of the system of internal improvement, the evidences of the clear and comprehensive statesmanship of that eminent man. The people of the country benefited by the Genesee Valley canal, who had almost given up every hope of seeing their great avenue completed, will be delighted at the unexpectedly large appropriation given to it—and so too with the Black River canal, which will soon by its usefulness refute the charges which it was the fashion, among those who knew no better, to make against it. The State has been exceedingly fortunate in calling to its public service, a statesman who neglects nothing—sees thoroughly to everything, and deems no interest of the State unworthy of his close and careful attention."

In the Whig National convention at Philadelphia, June 9, 1848, Gen. Zachary Taylor of Louisiana was nominated for President on the fourth ballot. The final vote stood: Taylor, 171; Clay, 32; Scott, 63; Webster, 14. Mr. Fillmore's name was presented by the Hon. John A. Collier, a delegate-at-large from New York; he was nominated for Vice-President on the second ballot. On the first ballot he received 115 votes, against 109 for Abbott Lawrence, and scattering votes for half a dozen others. On the second ballot Mr. Lawrence's support fell to 87 and Mr. Fillmore received 173 of the

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266 votes cast. His letter of acceptance, written at Albany, June 17, 1848, addressed to the Hon. J. M. Morehead, ex-Governor of North Carolina, who had been the president of the convention, will be found in due order in the following pages.

As Vice-President, Mr. Fillmore was an ideal presiding officer. Always urbane, dignified, judicial in bearing as in habit of mind, he ruled with impartiality and imbued his associates with a new sense of the dignity of their office and the service they were looked upon to perform. His most notable address, during this period, was made unexpectedly one morning in the Senate when he rose at his desk, and before the orders for the day were entered upon, delivered a dissertation to the surprised Senators on the necessity of a courteous observance of order in their deliberations, and announcing his purpose to depart when necessary from a custom that had been in vogue since the days of John C. Calhoun, and call a Senator to order for words spoken in debate, whenever he deemed the occasion for it had arisen. It was a wholesome assertion of authority, and contributed to a better dispatch of business in the body over which he presided.

Mr. Fillmore came to the Presidency at a period of extraordinary perplexity and difficulty. Congress had been in session for an exceptionally long period, involved in abortive efforts to adjust the sectional questions which had been thrown upon the country by the acquisition of extensive territories from Mexico. There was perpetual and increasing conflict between the extremists of North and South. When he took the helm, Mr. Fillmore saw the breakers ahead. Their ominous roar sounded "Disunion" in his ears. He was an Abolitionist, yet not such an Abolitionist as were many in the North. It took courage, in such a crisis, to defy alike the ravings of Southern Disunionists and the curses of extreme Abolitionists at the North. Mr. Fillmore determined on a middle course, and held to it. Under his auspices, the Compromise measures then pending in Congress became laws. For the time being the crisis was past. When forcible opposition to the execution of the Fugitive Slave law was threatened in the North, he firmly announced his purpose to enforce the law—relying, as he never failed to do, on the sanction and support of the Constitution. When South Carolina proclaimed it to be her purpose to secede, he was equally ready to declare his firm purpose of upholding the supremacy of Federal authority.

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Into the great issues of his term as President, on his attitude towards which Mr. Fillmore's reputation as a statesman chiefly rests, it is not the province of these notes to enter. Attention should, however, be called to the suppressed portion of his Message of December 6, 1852, relating to slavery. It is, apparently, little known even to those who have made an especial study of the political history of our country at that period. It was omitted from the Message, as finally sent to Congress, by the counsel of Mr. Fillmore's nearest advisers. It shows that he had considered the question of slavery, and the future of the institution in America, deeply and without prejudice. He sought a peaceful solution—a way out of the difficulty that could be defended by the Constitution—a way without disunion. It was not in his vision that the solution would come in a way of upheaval and bloodshed; would come by the hand of one who would rise above the Constitution in remembering humanity, one who was great enough to strike the shackles from the slave, keeping in view the eternal principles of right, rather than the hampering obstacles of law. Millard Fillmore was a conscientious man; but he was no Lincoln.

With the exception of appending his signature to the Fugitive Slave law, probably no act of Mr. Fillmore's Administration was more harshly criticised than his appointment of Brigham Young as Governor of Utah. It is still a subject of much misconception. Utah was erected into a territory by an Act of Congress, passed in September, 1850. Mr. Fillmore was in office for two and a half years after the passage of that act. During the whole of this time, the Mormons were, however, quiet and orderly. In 1850, they were known as a people who professed a peculiar, and to most citizens of the country, an absurd religion; but they were not known at the time as a community of polygamists. They had been persecuted in Missouri and Illinois, had been driven out of their famous establishment at Nauvoo, and had sought a refuge beyond the Rocky Mountains. They were, naturally, bitter towards the Gentiles who had persecuted them, and towards the Government. Having to deal with the problem, Mr. Fillmore followed his usual course of seeking conciliation if possible. In his judgment conciliation was better than attempted coercion. He thought that by the appointment of some of their prominent men to an important office in the new territory, the Mormons might be won back to loyal allegiance to the Government, while still maintaining the form of worship which they had chosen. He selected the Governor and one of the three territorial judges from the Mormon sect. The secretary of the ter-

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ritory, two judges and other officers were sent to Utah from the States and were not Mormons. Before appointing Brigham Young Governor, Mr. Fillmore with his invariable prudence, took pains to learn from authentic and respectable sources whether the character of the candidate would justify the appointment. Being assured in the matter, Brigham Young was duly appointed. That the Mormon organization was to bear the stamp of polygamy, was not known until near the close of Mr. Fillmore's Administration. The reader who may be curious in the matter is referred to an article published by the Edinburgh *Review* for April, 1854, in which is given an account of Brigham Young's revelation in July, 1843, by which he received Divine authority for himself and followers to have an unlimited number of wives. This, it will be noted, was the first promulgation of this feature of Mormonism—long after Mr. Fillmore had appointed Young as Governor; nor does it appear that there arose during Mr. Fillmore's term as President any occasion for Young's removal.

The Compromise measures of 1850, and slavery and the Fugitive Slave Act, were the greatest questions which his Administration had to confront. Of the other matters of which he wrote, especially to Webster, the mission of Kossuth and the Hülsemann correspondence, the Lopez filibustering expedition to Cuba, the Amistad affair, the Lobos Islands contention, matters relating to the Mormons, the Perry expedition to Japan, our relations with Peru, with Mexico, with Nicaragua—on these and other subjects, to which Mr. Fillmore's letters relate, there already exists historical record, for the most part of convenient access to the student; but there has not existed heretofore, any gathered material showing Mr. Fillmore's views on these matters, or recording his uniform effort and desire for just and honorable dealings with all, whether at home or abroad.

Among the achievements to be credited to his Administration, besides the Perry expedition which opened Japan to the world, were the expedition into Africa under Lieutenant Lynch, the Ringgold expedition to China, the Herndon & Gibbon expedition up the Amazon; the inauguration of cheaper postage, the establishment of an agricultural bureau, the extension of the Capitol; and in general, prosperous conditions at home, and harmonious relations with the rest of the world. A mere allusion to these features of his Administration is adequate for the present purpose.

Nor is it necessary here to go into the details of his break with Thurlow Weed, which resulted in an estrangement lasting for years,

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finally to end, as Mr. Weed has recorded in his own memoirs, through the overtures of Mr. Fillmore, so that in their last years amicable relations were restored. Something of it—not much—is to be traced in Mr. Fillmore's letters to Mr. Weed; the reader will not fail to note the change of tone—and then their total cessation. Mr. Weed's version has been given to the world in his "Memoirs," and has no doubt influenced the views of others who have written on the subject. Mr. Weed claimed to be responsible for Mr. Fillmore's nomination for Comptroller. Mr. Fillmore's friends maintained that Weed's was a hollow friendship—that believing Mr. Fillmore would not accept the nomination, he wished to force it on him, and then, in the event of his declination, charge him with refusing to serve the Whig party, and claim that all obligations to him were absolved.[1] On the origin of the estrangement, little can be gathered from Mr. Fillmore's own writings; but its effect can be traced in the course of both National and New York State politics. When on General Taylor's death, Mr. Fillmore succeeded to the Presidency and reconstructed his Cabinet, he was freely charged with playing false to the party that had elected him. He had acted contrary to the advice of Mr. Seward,[2] and entered upon a policy of compromise and conciliation. The President's independent course in regard to New York State patronage, especially the Canal Board appointments, still further embittered Mr. Seward. Throughout his administration as President Mr. Fillmore had nowhere greater political hostility to contend with than in his own State.

It had been Mr. Fillmore's purpose, at the close of his term as President, to make a long tour through the South, accompanied by several members of his Cabinet. That he hoped by so doing to check the tendency to disunion, is certain. But these plans were changed by the death of Mrs. Fillmore, in the same month in which his term ended, and a year passed before Mr. Fillmore had the heart to travel. A part of the tour then undertaken was made in company with Judge Hall, but for the greater part of it, the Hon. John P. Kennedy of Baltimore was his traveling companion. Mr. Fillmore and Judge Hall set out in March, 1854. Their first stop appears to have been at Columbus, Ohio, where they visited the Senate and House of Representatives. The Ohio *State Journal* said of this visit

1. On the Weed-Fillmore affair, *see* Dr. Foote's full and explicit statement, Buffalo *Commercial Advertiser*, August 25, 1853.

2. *See* Seward's Works, Vol. IV., p. 19.

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that "they attracted much attention, both from their high position among the leading men of the nation and the fact that they ranked among the best-looking men of the country." In Cincinnati, a few days later, a public reception was arranged for them. Mr. Fillmore's tour through Kentucky was marked by general ovations of friendship and admiration at every place at which he stopped. He visited Louisville, Lexington, Frankfort, Ashland, the home of Henry Clay, the latter being, perhaps, the chief objective point in Mr. Fillmore's journey.

Mr. Fillmore was called upon to speak at every point he visited. While on most occasions his remarks were merely those of compliment and thanks for his reception, yet on two or three occasions he took the opportunity to dwell on political issues, both past and present; some of these speeches, either through inadequate reporting or through malice, utterly misrepresent his views; and notwithstanding his subsequent corrections and denials, had wide currency in distorted form among his political opponents at the North. No other record of most of these speeches is known to the present editor than the contemporary newspaper reports. Sometimes these are mere abstracts, a form of reporting which is seldom just to the speaker; and at other times they undertake to give verbatim Mr. Fillmore's words. As printed in their place among his speeches in this collection, they are drawn from these various Southern newspapers, and the reader should bear in mind the conditions under which they were written.

Mr. Fillmore's tour embraced Vicksburgh, New Orleans and Mobile. He contemplated a visit to Cuba, but abandoned it and passed on to Savannah, and thence to Charleston, S. C., early in April, his visit being coincident with the session of the Southern Commercial convention. He reached Montgomery, Alabama, April 15th and made his way north by way of Augusta, Atlanta, Nashville, reaching New York May 18th, and his Buffalo home the evening of May 20th.

Nine days later, accompanied by his son and numerous other citizens of Buffalo, he set out for Chicago, from which point the tourists made an extended jaunt over the new line of the Chicago & Rock Island railway. Among other points visited was St. Louis, where an enthusiastic reception was arranged for the ex-President on June 12th. He went up the Mississippi to St. Paul, an incident of the trip being a meeting on board the steamer "Golden Era," at which Mr. Fillmore presided and resolutions were adopted expressing the appreciation of the excursionists for the enterprise and cour-

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tesy of the company, whose guests they were. Among Mr. Fillmore's companions on this jaunt were the Hon. George Bancroft and Postmaster-General Hall.

The European tour of 1855-56 is but scantily recorded, and of the second visit to Europe in 1866 there is even less to report. Of the former, an exceedingly interesting letter to his old friend, the Hon. Solomon G. Haven, printed in the present collection, preserves a pleasant glimpse. To his long-time friends and traveling companions for a portion of the tour, Messrs. Foote and Jewett, it is probable that graphic letters were sent, but none of these have been found.[1] The visit of 1855-56 was not without its honors, though Mr. Fillmore traveled as a private citizen, and on many occasions declined receptions and other marks of distinction. He has recorded his interview with Baron von Humboldt. Of his presentation at the Court of St. James nothing is found in his letters or speeches, though this honor was his, and the tradition lives that her Majesty, Victoria, pronounced him the handsomest man she had ever seen. He attended the International Exposition in Paris; and it was during his stay in that city that Horace Greeley was shut up in a French prison for debt. Mr. Greeley wrote a characteristic account of this episode, but failed to mention, what is said to be the fact, that it was Mr. Fillmore who came to his relief. Mr. Fillmore visited him in prison, and is said to have supplied the money that gained him release.[2] During his stay in Paris, Mr. Fillmore was presented to the Emperor Louis Napoleon, and subsequently, in Rome, was granted an audience by Pope Pius IX.

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1. Acknowledgment is due to Mr. William P. Northrup of Buffalo, who, at the request of the editor, made search among the papers of his uncle, the late Elam R. Jewett; but contrary to expectation, no letters from Mr. Fillmore were found.

2. In reply to an inquiry from the editor of this volume, regarding this incident, the Hon. Andrew D. White writes: "I was in Paris at the time, saw Mr. Greeley and remember the circumstances well; but I cannot state whether Mr. Fillmore supplied the funds for Mr. Greeley's release, or not. All that I heard was, as regards Mr. Fillmore, that he called on Mr. Greeley when the latter was in Clichy prison." President White adds: "My remembrances of Mr. Fillmore are remarkably vivid in view of the fact that I saw him but once or twice. This vividness is probably due to the great respect in which he was held in my father's family during his connection with the State, but possibly even more by the impression his personal appearance made on me. He was certainly one of the finest looking men I ever saw, and when afterwards I saw Pope Pius IX at Rome, saying Mass at the High Altar of St. Peter's and giving the blessing to the crowd in the front of that church, I was struck by what appeared to me, a striking resemblance in the appearance and bearing of the two men, especially in the remarkably kindly character of their faces."

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Soon after his return to America, an Englishwoman's report of a conversation with Mr. Fillmore was widely published. The following extract may be preserved here, by way of illustrating certain of Mr. Fillmore's views.[1]

We were one day talking of the almost impossibility (I mean as a general rule) of the negro becoming an intellectual being; and as their intellectual faculties are unused, so their senses are quickened; their sight how keen, finding the trail where European eyes discerned no trace of feet. From this we passed to society at large. I said: "In England the intellectual classes most certainly belong to neither the highest nor the lowest."

"Precisely," said Mr. Fillmore, "they are of those who have been most obliged to cultivate their faculties; it is with the mind as with the body, if any muscles are unused, they contract and grow smaller; and every power of mind increases in like measure with its use. And as with the mind so with the spirit, also; the ten talents gain other ten, while the hidden treasure lies useless."

Speaking of agriculture, he said, he had been greatly struck in England by the way in which the land was urged to the utmost—every bit of ground being cultivated to the greatest extent. "Our implements," he added, "are perhaps the best, but it is necessity with us, as labor is scarce, and we have to provide otherwise." He then contrasted the activity and life of England with the decay and langour of Italy. Of the religion, he said: "There is much to captivate many minds—the music, the painting, the devotion, the equality, high and low kneeling side by side, before their common Father."

"Yes, that is very striking," said I.

He looked up earnestly and added—in, I believe, these words: "The more we forget station in religion, the nearer we are to Christianity."

The ex-President admired our writers in the most hearty way; he remarked that Macaulay's description of the trial of Warren Hastings was a "perfect daguerreotype of the scene." Carlyle and the German school did not come in for much praise; but he liked Gray's "Elegy" so entirely, that he had been to Stoke Pogis to see his grave.

For many years, before he was President as well as after, Mr. Fillmore was the citizen of Buffalo most likely to be called upon to receive and welcome distinguished visitors. It was in this capacity, as the following pages in some cases attest, that he welcomed ex-President John Quincy Adams in 1843, President-elect Abraham Lincoln in 1861, President Andrew Johnson in 1866. In September, 1851, he shared in entertaining Sir Samuel Morton Peto, whose visit to Buffalo preceded a great work which he promoted, the

1. Buffalo *Commercial Advertiser*, April 9, 1857.

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construction of the International Bridge across the Niagara. He shared in entertaining the Japanese Ambassador, Tomomi Iwakura, and his suite at Niagara Falls, and H. R. H. Prince Arthur in Buffalo; and was chosen to arrange for a reception in 1861 to the Prince of Wales, who was, however, unable to extend his American tour to Buffalo.

By reason of his known lack of sympathy with the Northern cause, Mr. Fillmore's reception of President Lincoln was the subject of much gossip and speculation. But there was no occasion, then or ever, to mistrust his courtesy and sincerity. He was unable to endorse everything in Mr. Lincoln's policy, but he esteemed Mr. Lincoln as a man, and no one outdid him in the cordiality of his welcome. He entertained the President at his home, and paid him every attention, consistent with the simple, unostentatious hospitality that both guest and host preferred.[1]

In shameful contrast with this was the indignity offered Mr. Fillmore on the death of Lincoln, his house being smeared with ink because it displayed no signs of mourning. No matter that the simple and sufficient explanation was promptly made—the omission being due to the fact that Mrs. Fillmore was ill and Mr. Fillmore for the time being unaware that residences were hung with black—or that at earliest opportunity the house was appropriately draped; the affair was magnified by hostile tongue and press, until one might judge, from some of the reports, that a vast throng of his respectable fellow-townsmen gathered in front of his house and vied with each other in insulting its venerable occupant. That the affront was the work of but a few, and they of the most ignoble, is the testimony of living witnesses. This, and the alleged hanging of Mr. Fillmore in effigy, form evil episodes in the war-time history of Buffalo, but leave no stain on the character of the man against whom the outrages were directed.

And a few days later it was Mr. Fillmore's name which headed the citizens' committee appointed to meet the Lincoln funeral train at Batavia (April 26, 1865) and serve as escort to Buffalo.

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1. Mr. Lincoln arrived in Buffalo, Saturday, February 16, 1861. On Sunday, Mr. and Mrs. Fillmore accompanied him to the First Unitarian church, where they listened to a sermon by the Rev. Dr. Hosmer. In the evening, the President and Mrs. Fillmore attended a public meeting at St. James Hall, in behalf of certain Western Indian tribes. Numerous anecdotes, some of them very likely based on truth, exist to this day in Buffalo, regarding this visit; to record them here would be to impart too much of a Boswellian character to our chronicle.

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In its place among Mr. Fillmore's miscellaneous addresses in Buffalo will be found his remarks on receiving a flag for the Union Continentals (July 4, 1861). This was an organization of well-known men of Buffalo, whose chief functions were to stir up enthusiasm and act as escort for the young recruits when summoned to the front. Mr. Fillmore was the first commander of this useful and representative Home Guard.[1]

The first departure of Buffalo volunteers for the Civil War, May 3, 1861, was an incident important enough to warrant the remark of the *Commercial Advertiser*, the next day:

Of all the noble events that mark the history of the Queen City, not one can match with that of yesterday. Not one possessed so much of proud display, excitement and significance, or contained one half its touching pathos. The departure of the first companies of volunteers for the war of 1861, will be an ineffaceable memory in every heart among the throng that waved them adieu, and bade them godspeed with ringing cheers.

The four companies of Buffalo youths who marched away on this occasion, were escorted to the station by the "Old Guard," or Continentals, under the command of ex-President Fillmore, "holding the rank of major." "The venerable and honored commander," says the report just quoted from, "ex-President Fillmore, marched stately and erect, at the head of the column, wearing a sword and plume, and looking like an emperor."

At the depot, "ex-President Fillmore, uncovering his white locks, and raising himself to his full height, cries, 'Old Guard, attention! Three cheers for the Buffalo Volunteers!' Every head in the ranks is bare, every arm is lifted, and every voice shouts a stentorian 'hurrah, hurrah, hurrah!' Again the soldiers hoarsely respond—all but a few who, with faces turned from the scene, were soothing the sorrowful females who cling to their skirts, or are bidding good-bye to friends."

The Union Continentals, under Mr. Fillmore's imposing command, figured in many of the stirring scenes of those sad, excited days. On one Washington's Birthday Mr. Fillmore led his com-

1. The original officers of the Union Continentals of Buffalo, as organized in the spring of 1861, were as follows: Captain, Millard Fillmore; first lieutenant, Lewis F. Allen; second lieutenant, Aaron Rumsey; third lieutenant, Henry W. Rogers; orderly sergeant, Justus Spertzell; second orderly sergeant, Asher P. Nichols; third orderly sergeant, Samuel W. Hawes; fourth orderly sergeant, Orlando Allen; fifth or color sergeant, M. Cadwallader; first corporal, Nathaniel Wilgus; second corporal, John L. Curtenius; third corporal, William Williams; fourth corporal, Valorus Hodge; surgeon, Horatio N. Loomis; chaplain, Rev. John C. Lord, D. D.

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pany in full uniform to Dr. Lord's church (the Central Presbyterian), where, after prayer by the chaplain, Captain Fillmore read Washington's Farewell Address, and national airs were sung by the choir.

Mr. Fillmore's speech at the great Union rally at the Metropolitan Theater, in Buffalo, April 16, 1861, is included in these volumes. It is recorded that at the adjournment of that meeting the happy finale was added by "ex-President Fillmore, the chairman, rising, swinging his hat, and leading off in three glorious cheers for the Union and the Constitution." But the proper conclusion is only reached with the added fact that Mr. Fillmore contributed $500 to the support of families of volunteers, and that his was the first money paid for this cause in Buffalo.

Mr. Fillmore was chairman of the Buffalo Committee of Public Defense, which in 1862 called the attention of the Federal and State governments to the need of defense on the Niagara Frontier. The very interesting letters on this subject, signed by Mr. Fillmore, will be found in place among his miscellaneous correspondence.

As a citizen of Buffalo Mr. Fillmore was always, in a high sense of the term, public-spirited. He was devoted to whatever made for better conditions of living or higher levels of thinking. In 1832 we find him active in the Buffalo Lyceum. In 1841 he became a life member of the Young Men's Association, and gave liberally to the collection of books which was the basis of the present Buffalo Public Library. Although away from Buffalo much of the time, he maintained a singularly active part in many local enterprises. The Bar Association always enlisted his interest and on various occasions he presided at its meetings, notably on September 9, 1847, when memorial exercises were held on the death of Latham A. Burrows, and Mr. Fillmore wrote the resolutions. In 1850, various honors came to him in consequence of his official position. He was made chancellor of the Smithsonian Institution; but with unfailing regard for Buffalo, we find him, January 19, 1850, presiding at a public meeting for the relief of the poor of the city, and contributing to the work. His addresses in the following pages testify to his interest in the Buffalo General Hospital, of which he was a founder, and president in 1870; in the University of Buffalo, of which he was chancellor, 1846-74; of the Fine Arts Academy, at the inauguration of which he presided, February 16, 1865, as at other annual openings; of the Society of Natural Sciences, for which, February 8, 1868, his name headed a list of Buffalo citi-

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zens who constituted a committee to devise a plan to relieve the necessities of the society—the plan hit upon being a ball, which seems to have been truly "a brilliant social event." He was one of the directors of the Buffalo Club, 1867, and its first president; an organizer of the Society in Buffalo for the Prevention of Cruelty to Animals, presiding at several of its meetings in 1867; and one of the founders of the Buffalo Historical Society, in 1862, and its president, 1862-67; his inaugural address was given at old American Hall, July 1, 1862.

In May, 1857, Mr. Fillmore's name headed a list of citizens who invited Capt. H. A. De Riviere, a veteran of the French army in the Crimea, to lecture on the battles of that campaign. In December, 1863, he was one of a number of Buffalo gentlemen who were selected as trustees for a boys' school which it was proposed to establish. In the following January he presided at a meeting of the executive committee of the Great Central Fair, to be opened February 22d, and later was made its president. It was his address on this occasion which brought upon him the maledictions of his enemies and embittered many who theretofore had been his friends. His words, as printed at the time, are given in their place in this collection, with some quotation from contemporary comment. Mr. Fillmore could not have failed to feel the chill in the social atmosphere, but he kept the even tenor of his way among his old neighbors, holding for the most part to an admirable silence.

In 1866 he went abroad again for a few months. He had scarcely returned, in July, when Lieutenant-General Sherman arrived in Buffalo, and Mr. Fillmore was among those who welcomed him—but others made the speeches. In August of that year Mr. Fillmore was an active and cordial host, as one of the local committee which entertained delegates to a notable meeting in Buffalo of the American Association for the Advancement of Science. It was in this month also that he headed the citizens' committee for the reception of Andrew Johnson, and was chairman of the joint committee of citizens and the Common Council.

In July, 1867, at a meeting held under the auspices of the Buffalo Historical Society, Mr. Fillmore was appointed president of the Soldiers' Monument Association of Erie County, "formed to take measures to ensure the erection of a suitable monument to the heroic dead of Erie county who have fallen in the recent war against rebellion, and to coöperate with the public authorities and other organizations or individuals to consummate this work." The vice-presidents included representatives from each town in the

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county, and it was proposed to turn into the fund a surplus of $5000 from the Union Continentals fund. The project was not at that time successful, and when after some years the monument was erected it was by the efforts of another organization.[1]

Among other public functions, more or less notable in the annals of Buffalo, which as matter of record should be included here, were: The complimentary dinner to Maj.-Gen. William F. Barry, at the Tifft House, Buffalo, October 24, 1867, attended by some eighty of Buffalo's citizens, and presided over by Mr. Fillmore. On December 9, 1870, also at the Tifft House, the Buffalo Board of Trade gave a banquet to the National Board of Trade, on which occasion we find Mr. Fillmore responding to a toast in his honor. Later in the same month, he shared in the entertainment of the Grand Duke Alexis at the Buffalo Club, and escorted him to Fort Porter. Two years later (November 28, 1872,) Mr. Fillmore presided at a Thanksgiving dinner to the newsboys and bootblacks of Buffalo, given in Grace Methodist Episcopal Church, under the auspices of the Young Men's Christian Association; and on December 23d of that year, at the tenth anniversary of the Buffalo Fine Arts Academy, he unveiled a portrait of the artist L. G. Sellstedt which had been bought for the permanent collection. This enumeration of Mr. Fillmore's activities, even to the last year of his life, might be extended; but the foregoing may suffice to show his active share in the worthy enterprises of his home city, and the character of his interests.

An incident of a late year of his life, not without its illustrative value, was his signing (November, 1868) a petition addressed to Governor Reuben E. Fenton, asking for a commutation of a sentence of death to life imprisonment for Kate Johnson, convicted of murder in the first degree.

Mr. Fillmore was not an eloquent speaker, nor a felicitous writer. His use of metaphor or simile was seldom happy; but his expression was never obscure, and it reflected, in spite of minor flaws, his suavity of manner, his consideration of others, and his high respect for himself. His one guiding star, his criterion of political right, throughout his public career, was the Constitution. It is curious to

1. The Buffalo Historical Society never lost sight of the project, and it was finally under its auspices that the cornerstone of the Soldiers' and Sailors' Monument, erected by the city of Buffalo and the Ladies' Monument Association, was laid on July 4, 1882, in the fiftieth year of Buffalo's existence as a city.

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note his allusions to it, time and again, in speeches and in correspondence. That it was an honest devotion to the fundamental law of his country, is beyond doubt. "Whatever may be my fate personally," he is quoted as saying, "is not worth a thought, if the integrity of the Constitution can be maintained, and we can transmit this glorious heritage unimpaired to our posterity."

Of his engaging personality, much has elsewhere been written, and much might be added, were this the place for it. And of his habits, the following in his own words—as quoted from a conversation with a friend, about 1870—may suffice:

"I have taken but one dose of medicine in thirty years, and that was forced upon me unnecessarily. I attribute my good health to the fact of an originally strong constitution, to an education on a farm and to life-long habits of regularity and temperance. I never smoked or chewed tobacco. I never knew intoxication. Throughout all my public life I maintained the same regularity and systematic habit of living to which I had previously been accustomed. I never allowed my usual hours for sleep to be interrupted. The Sabbath I always kept as a day of rest. Besides being a religious duty, it was essential to health. On commencing my Presidential career I found that the Sabbath had frequently been employed by visitors for private interviews with the President. I determined to put an end to the custom, and ordered a door-keeper to meet all Sunday visitors with an indiscriminate refusal. While chairman of the committee on Ways and Means in Congress, and during my entire Presidential career, my labors were always onerous and even excessive, but I never suffered a hour of sickness throughout them all."

Mr. Fillmore's fatal illness dated from February 13, 1874. On the morning of that day, as he was shaving, his left hand suddenly fell powerless, and the paralysis soon extended to the left side of his face. Two weeks later he had a second attack, and the end came on March 8th.

Mr. Fillmore's letters, here collected, have been copied for this publication from the originals in many places. Those drawn from the Departments at Washington are duly indicated as printed. The Chase, Clayton, Corwin, Crittenden, Pierce, Polk and Webster collections in the Library of Congress have all yielded something. Other sources that have proved fruitful are the New Hampshire Historical Society, with its valuable Webster manuscripts; the Historical Society of Pennsylvania, the Historical Society of Wisconsin, the Massachusetts Historical Society, Boston; the Virginia Historical Society, Richmond; the Tennessee Historical Society, Nashville;

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the Albany Institute, Albany, N. Y.; the Chicago Historical Society; the New York Public Library, Lenox branch; the Oneida Historical Society, Utica, N. Y., and the public libraries of Utica and Buffalo. The Buffalo Historical Society, the natural heritor of many of Mr. Fillmore's papers, owns of his original manuscripts, the autobiography, three addresses, and a few letters.

Special and grateful acknowledgment, for the use of Fillmore letters, is due to Mrs. Emily B. Alward, Miss Ida Haven, Mr. Harvey Putnam, Mr. Walter J. Shepard, and heirs of the late R. B. Adam, Buffalo; Mrs. Emily Weed Hollister, Rochester, N. Y.; Miss Hilda Millet, 77 Mt. Vernon street, Boston, Mass.; Miss G. Adelaide Slade, Hamilton, N. Y.; Mr. William Slade, Kelloggsville, N. Y.; Mr. Thos. R. Proctor, Utica, N. Y.; Gen. Jas. Grant Wilson, Mr. Adrian H. Joline, Mr. H. L. Ehrich, and Mr. Geo. B. Richmond, New York City; Miss Anna L. Riley, East Aurora, N. Y.; Mrs. Geo. W. Patterson, Westfield, N. Y.

It should be noted, that where Mr. Fillmore's original manuscript has been available, for this publication, his own spelling and style of capitalization and punctuation have been followed.

F. H. S.

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ERRATA.—Page 18. The allusion to Millard Fillmore as John Fillmore's "grandson," should read "great-grandson."

Page 235, third line from bottom: "The *Madisonian* of the same city" [New York] should read: "of Washington."

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MILLARD FILLMORE CHRONOLOGY

1800. Jan. 7. Born at Locke, now Summerhill, Cayuga county, New York.
1815. At work wool-carding and cloth-dressing.
1821. Moved to Aurora (now East Aurora, Erie county), New York.
1822. Read law in Buffalo, but lived in Aurora till spring, 1830.
1823. Admitted to practice, Court of Common Pleas, in Buffalo.
1823-30. Practiced law in Aurora.
1826. Feb. 5. Married Abigail, daughter of Rev. Lemuel Powers.
1827. Admitted to the bar, as attorney of the Supreme Court.
1828. May 22. Delegate to the Erie county convention of the National Republicans; member of the county committee from Aurora; endorsed John Quincy Adams.
1828. Nov. Elected to the New York Assembly, as candidate of the Anti-Masonic party.
1829. Admitted as counsellor, New York Supreme Court.
1829. Reëlected to New York Assembly.
1830. Reëlected to New York Assembly.
1831. Jan. 4. Took seat for third time in New York Assembly. Distinguished himself by drafting and advocating act to abolish imprisonment for debt; bill passed April 26, 1831.
1832. April. Law firm of Clary & Fillmore formed.
1832. Elected Representative in Twenty-third Congress.
1833. Dec. 2. First took seat in House of Representatives.
1834. Law firm of Fillmore & Hall formed.
1836. Jan. 10. Law firm of Fillmore, Hall & Haven formed.
1836. Oct. 4. Renominated for Representative in Twenty-fifth Congress; later elected.
1838. Reëlected Representative in Twenty-sixth Congress.
1840. Reëlected Representative in Twenty-seventh Congress; chairman of Ways and Means committee; "leader of the House."
1842. June 9. Made his famous tariff speech in the House.
1842. Declined renomination to Congress.

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1844. May. Candidate for Vice-President in the Whig National convention at Baltimore.
Sept. 11. Nominated for Governor of New York; defeated by Silas Wright.
1846-74. Chancellor, University of Buffalo.
1847. Oct. 6. Nominated for Comptroller, New York State, in the Whig State convention at Syracuse.
1847. Nov. 2. Elected Comptroller, New York State.
1848. Jan. 1. Assumed office as Comptroller.
June 9. Nominated for Vice-President by the Whig National convention.
Nov. Elected Vice-President.
1849. Feb. 20. Resigned as New York Comptroller.
March 4. Inaugurated Vice-President.
1850. July 10. Took oath of office as President of the United States.
Sept. 18. Approved Fugitive Slave Act.
1851. July 4. Laid the corner-stone of the Capitol extension.
1852. June 16-21. Unsuccessful Whig candidate for Presidential nomination in the Whig National convention at Baltimore.
1853. March 4. Retired from the Presidency.
March 30. Mrs. Fillmore died at Washington.
1855. May 17. Sailed for Liverpool.
1856. Feb. 22. Nominated for President by the American party at Philadelphia.
May 21. Wrote his letter of acceptance at Paris.
1856. June 22. Arrived in New York.
1856. Nov. Overwhelmingly defeated in the election, receiving only the eight electoral votes of Maryland.
1858. Feb. 10. Married Mrs. Caroline C. McIntosh.
1862. Chairman, Buffalo Committee of Public Defense.
1862. One of the incorporators, Buffalo Fine Arts Academy.
1862. May 20. Chosen president, Buffalo Historical Society, which he had helped to found; reëlected yearly, 1862-67.
1865. Dec. 8. Executed his last will and testament. Codicils dated September 19, 1868, and April 28, 1873.
1866. Visited Europe with his second wife.
1866. July 13. Arrived in Buffalo, from his second European trip.
1867-68. First president, Buffalo Club, and one of its founders.
1870. President, Buffalo General Hospital.
1870-74. Trustee, Grosvenor Library, Buffalo.
1874. March 8. Died at his home in Buffalo.

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MILLARD FILLMORE PAPERS

VOLUME ONE

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MILLARD FILLMORE'S

AUTOBIOGRAPHY

OF HIS

EARLIER YEARS

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OF THE
UNIVERSITY
OF
CALIFORNIA

MILLARD FILLMORE'S YOUTH

NARRATIVE OF HIS EARLY YEARS

WRITTEN BY HIMSELF[1]

I have been requested to state some of the early incidents of my life for the benefit of the Buffalo Historical Society; and in compliance with that request I proceed at once to the task. Believing that an humble origin affords no just cause of concealment or shame,—and certainly not, even when fortune has smiled, for vain-boasting and self-glorification,—I shall content myself by stating that I am the second child and eldest son of Nathaniel Fillmore and Phœbe Millard. I was born in Locke (now Summer Hill), Cayuga County, New York, on the seventh day of January, 1800. My father was a native of Bennington, Vermont; and my mother was a native of Pittsfield, Massachusetts. They were early settlers in what was then known as "The Military Tract." At the time of my birth, my father and his brother Calvin, and their wives, occupied the same log house in the midst of the forest, having no neighbor nearer than four miles. About two years after my birth, my father met with what seemed at the time a great misfortune; but was (at least so far as I was concerned) a blessing in disguise. He

1. This autobiography of the late Millard Fillmore was written in 1871, at the request of the Buffalo Historical Society, and deposited by him in its archives, under seal, not to be opened until after his death. It is printed in Vol. II of the Society's Publications, issued in 1880, but for some years out of print.

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lost all his property through a bad title to the property which he had purchased. I say this was a blessing in disguise, as the township where he had located, being high and cold, was one of the poorest in the whole Military Tract, and far removed from any thoroughfare or central point of business. In other words, it was completely shut out from all the enterprises of civilization and advancement, and remained so for more than half a century. My father then left the town, and removed into what was then Sempronius (now Niles), in the same county. Here he took a perpetual lease of a small farm of about one hundred and thirty acres, wholly uncultivated, and covered with heavy timber. He built a small log house and commenced clearing the land; and it was at this place and in these pursuits that I first knew anything of life. That farm is about one mile west of Skaneateles Lake, ten miles from its outlet, and about one mile east of a little hamlet called Newhope.

I had, like most boys, a great passion for hunting and fishing, but my father was very unwilling to indulge it. He used to tell me that no man ever prospered who spent much of his time in hunting and fishing; and that those employments were only fit for Indians, or white men no better than they. Consequently, I had no gun, and could only enjoy the sport of shooting when I could borrow of a neighbor. Nevertheless, when I had any spare time I used to go down to the lake, and fish and bathe in its limpid waters. It was indeed one of the clearest and most beautiful lakes which I have ever seen. The canoe seemed suspended in mid-air, and the fish could be seen at great depths.

The town of Niles, and especially that part of it, was then very sparsely settled. There were no schools, except such as were improvised for the summer, and taught by a woman of very limited education. The first that I recollect was at Newhope, in an old deserted log house, which had been furnished with a few benches without backs, and a board for writing upon. In this school I learned my alphabet, at the age of six or seven. Of course nothing was taught but the most simple lessons in spelling and reading.

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When I was about ten years old, a man was employed by the name of Amos Castle, who gave us some instruction in writing and arithmetic, and drilled us most thoroughly in Webster's spelling-book. I think I went through that book without missing in the spelling of a word; but I did not learn the definition of a single one. In fact, there was no such thing as a dictionary in school, and I had never seen one. From about the age of ten or eleven, I could not be spared from the farm during the summer, and therefore, only attended school for two or three months in the winter. Consequently, I forgot nearly as much during the summer as I learned in the winter. I, however, acquired some knowledge of arithmetic, and read Dwight's old geography of questions and answers enough to have acquired some knowledge of geography, had there been any such thing as a map or atlas in school; but I never saw either till I was nineteen years of age.

When I was about twelve or thirteen, some effort was made to organize a school under our present admirable system of common schools; and after that there was some improvement in our teachers. One scholar had a copy of Morse's geography, which he permitted me to look at, and I devoured it with the greatest avidity. I recollect well the impression made upon me by the account given of Bruce's travels in Abyssinia.

I continued thus to work upon the farm in summer, till I was in my fifteenth year. During that time, being large of my age and unusually strong, I learned to plow, to hoe, to chop, to log and clear land, to mow, to reap, and, finally, to do all kinds of work which is usually done in clearing and cultivating a new farm. But my father's misfortune in losing his land, and the scarcely less misfortune of having a hard, clayey soil for cultivation, gave him a great distaste for farming; and he was, therefore, anxious that his sons should follow some other occupation. His means did not justify him or them in aspiring to any profession, and, therefore, he wished them to learn trades. In the fall of 1814, a neighbor had been drafted into the military service for

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three months, and he offered me what I regarded as a very liberal sum to take his place as a substitute. I was foolish enough to desire to accept the offer, but at the same time a man by the name of Benjamin Hungerford, formerly a near neighbor, but then living in Sparta, Livingston County, N. Y., where he had established the business of carding and cloth-dressing, came to my father and proposed to take me on trial for three months; then, if we were both suited, I was to become an apprentice to the business. My father persuaded me to abandon the idea of becoming a soldier, and to go home with Mr. Hungerford to learn a trade. He had come with an old team to purchase dye-woods and other materials for his business—his load was very heavy and the roads very bad—consequently I had to go on foot most of the way, something like a hundred miles; but I endured this very well.

Up to this time I had never spent two days away from home, and my habits and tastes were somewhat peculiar. For instance, I was very fond of bread-and-milk, and usually ate it three times a day, regardless of what others ate. And here I will say, I think that this early habit, and the thorough training afforded by out-door exercise on a farm, gave me a constitution and digestive powers which have enabled me to preserve my health under all the vicissitudes of a varied life; and to my uniform good health and temperate habits I am chiefly indebted, under Providence, for any success I have attained. But I found, when I got to Sparta, that milk was a luxury in which I could but seldom indulge. On the contrary, I was compelled to eat boiled salt pork, which I detested, with, occasionally, pudding and milk, and buckwheat cakes, or starve. This was very hard, but I did not complain. I was, however, more disappointed at the work I was required to do. I had become anxious to learn the trade, and supposed I should be put at once into the shop; instead of which I was set to chopping wood for a coal pit. I probably manifested some disappointment, but I was reconciled to the work by being told that charcoal was indispensable for cloth dressing; that I might be so situated that

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I could not purchase, and that therefore it was necessary to know how to make and burn a coal pit.

I was the youngest apprentice, and soon found that I had to chop most of the wood, having very little opportunity to work in the shop; and as it seemed to me that I was made to enslave myself without any corresponding benefit, I became exceedingly sore under this servitude. One day when I had been chopping in the woods, I came into the shop just before dark, tired and dissatisfied; and Mr. Hungerford told me to take my ax and go up on the hill and cut some wood for the shop. I took up my ax, and said (perhaps not very respectfully) that I did not come there to learn to chop; and immediately left without waiting for a reply. I went on to the hill, mounted a log, and commenced chopping. Mr. Hungerford soon followed me up, and, coming near, asked me if I thought I was abused because I had to chop wood. I told him I did; that I came there for no such purpose, and could learn to chop at home; and that I was not disposed to submit to it. He said that I must obey his orders. I said: "Yes, if they are right; otherwise I will not; and I have submitted to this injustice long enough." He said: "I will chastise you for your disobedience"; and stepped towards me, as I stood upon the log, with my ax in my hand. I was burning with indignation, and felt keenly the injustice and insult, and said to him, "You will not chastise me"; and, raising my ax, said, "If you approach me I will split you down." He looked at me for a minute, and I looked at him; when he turned and walked off. I am very glad that he did so; for I was in a frenzy of anger, and know not what I might have done. I had dwelt in silence and solitude upon what I deemed his injustice, until I had become morbidly sensitive; and his spark of insolent tyranny kindled the whole into a flame. I do not justify my threat, and sincerely regret it; but the truth must be told.

The next day he asked me if I wished to go home. I told him I was ready to go, or would stay the three months for which I came, if I could be employed in the shop. He

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said I might be, and so I remained until the time was up; when I shouldered my knapsack, containing bread and dried venison, and returned to my father's on foot and alone. Mr. Hungerford came after me next year, but I refused to go with him.

I think that this injustice, which was no more than other apprentices have suffered and will suffer, had a marked effect upon my character. It made me feel for the weak and unprotected, and hate the insolent tyrant in every station of life. Some acts of tyranny during the late rebellion, have made my blood boil with indignation; but perhaps I was wrong, since the country at large seems to have borne them with more than Christian patience and humility.

One other incident that occurred during these three months of servitude, may be mentioned. The only holiday which I was allowed was the first day of January, 1815; when I went, with the other employes of the shop, to the house of a Mr. Duncan, where the day was to be celebrated. There I witnessed for the first time the rude sports in which people engage in a new country; such as wrestling, jumping, hopping, firing at turkeys and raffling for them, and drinking whisky. I was a spectator of the scene; taking no part, except that I raffled once for the turkey that was perched up in one corner of the room, and won it. No persuasion could induce me to raffle again; and that was the beginning and end of my gambling, if it might be called such, as I have never since gambled to the value of a cent.[1]

In 1815, I commenced my apprenticeship with Zaccheus

1. Apropos of this trait of Mr. Fillmore's character is an anecdote long current in Buffalo. When Mr. Fillmore was practicing law in the local courts, he was known as a pretty formidable antagonist. On one occasion a witty lawyer by the name of Talcott was his opponent. Wishing to show to the jury how strongly the rival side of the case was fortified, he made use of a phrase which he presumed would come home to their feelings. "Not only," said he, "have my client's rights been thus invaded, but also, in order to sustain that inroad, you find arrayed against him the best talent in the country —I may say, the right bower of the profession!"

"What does the gentleman on the opposite side mean by the 'right bower'?" asked Mr. Fillmore, who had never played a game of euchre in his life.

"Why," said Talcott, with a sly wink at the jury, "I thought everybody knew what that meant—the biggest knave in the pack!"

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Cheney and Alvan Kellogg, who carried on the business of carding and cloth-dressing at Newhope, near my father's residence. I was not indentured, but the verbal bargain was, that I was to serve during the season of wool-carding and cloth-dressing—which usually lasted from about the first of June to the middle of December—until I arrived at the age of twenty; for which I was to be taught the trade, and receive fifty-five dollars for each year, except the last, when the amount was to be increased. This was thought to be sufficient for my clothing and spending money, and all the rest of my time and earnings belonged to my father, who had a large family and a sickly wife to support. I was well pleased with my situation, and all things went on smoothly and satisfactorily. The apparent impossibility of anything better or higher suppressed hope, and enforced contentment. I went to school some, during the winters of 1816 and 1817, and worked on the farm during the spring. I had thus far had no access to books, beyond the school-books which I had; as my father's library consisted only of a Bible, hymn-book and almanac, and sometimes a little weekly paper from Auburn; but in 1817 or 1818 a small circulating library was established in the town, and I managed to get a share, which cost me two dollars. Then, for the first time, I began to read miscellaneous works. Still, I had very little leisure to indulge in this luxury. I read without method or object; nevertheless, I read enough to see the need of a better knowledge of the definition of words. I, therefore, bought a small dictionary, and determined to seek out the meaning of every word occurring in my reading, which I did not understand. While attending the carding machines, I used to place the dictionary on the desk—by which I passed every two minutes in feeding the machines and removing the rolls—and in this way I could have a moment in which to look at a word and read its definition, and could then fix it in my memory. This I found quite successful.

The winter that I was eighteen years of age, I was employed to teach a country school in the town of Scott, at the

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head of Skaneateles Lake. This was at that time a very rough and uncultivated place, where the boys, the winter before, had driven out the teacher and broken up the school. It was not long before I saw that the question who was master, had got to be decided. One of the boys set my authority at defiance—evidently with the intention of bringing on a fight. I ordered him up for chastisement. Immediately, the larger boys sprang to their feet, and one attempted to seize the wooden poker, but I was too quick for him, and raising it, I stamped my foot, and told them to sit down—and they obeyed. I punished the guilty one without further interference; but it raised a breeze in the neighborhood. A school meeting was called, which I was invited to attend, and did. I then found it to have been represented, that I punished scholars with the poker. I stated the facts, and told them that I was ready to quit the school if they desired it; but that while I remained, I should be master, even if I used the poker in self-defense. After some discussion they concluded that the school should go on, and I had no further trouble. After my school closed, finding nothing better to turn my hand to, I attended a saw-mill for a month or two, and then shouldered my knapsack, and came out to Buffalo, to visit some relatives and see the country.

That was in May, 1818, and Buffalo then presented a straggling appearance. It was just rising from the ashes, and there were many cellars and chimneys without houses, showing that its destruction by the British had been complete. My feet had become blistered, and I was sore in every joint and muscle; and I suffered intensely. I crossed the then Indian reservation to Aurora, and recollect a long rotten causeway of logs extending across the low ground from Seneca Street nearly to the creek, over which I paddled myself in a canoe. I staid all night at a kind of Indian tavern about six miles from Buffalo, kept by a man by the name of Lane. A number of drunken Indians and white men kept up a row during most of the night. Next day I went through the woods alone to what is now Willink, and thence into the town of Wales; where a couple of weeks of

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rest healed my blistered feet and restored my suffering muscles. I then traveled back through Geneseo, with great ease, making, one day, forty miles. Then, for the first time, I saw the rich bottom-lands of the Genesee river, and the beautiful village of Canandaigua, which seemed to me an earthly paradise.

I returned to my apprenticeship in June, and improved every leisure moment in studying and reading. My attempt to teach had made me conscious of my deficiency. I, therefore, decided to attend school, if possible, the next winter. But the best school was in a different part of the town from that in which my father lived, and I had no means to pay my board. Nevertheless, I was determined to go to school, and I effected an arrangement with a farmer, by which he was to board me, and when the school closed I was to work for him, chopping two days for every week's board, which I did. I then, for the first time in my life, heard a sentence parsed, and had an opportunity to study geography with a map. I pursued much of my study with, and perhaps was unconsciously stimulated by the companionship of, a young lady whom I afterward married.

About this time my father sold his farm, and removed to Montville, Cayuga County, where Judge Walter Wood resided. He was a gentleman somewhat advanced in years, and reputed to be very wealthy. He had farms and tenants scattered over several counties on the Old Military Tract. The titles were often the subject of litigation, and his professional business was mostly limited to actions of ejectment. He had a good library, and was a man of remarkable energy and of methodical business habits; and from his example and training I derived essential benefit, especially from his scrupulous punctuality. He was in religious sentiments a Quaker; using the Quakers' plain language, dressing in their style, and punctually attending the "Meeting" twice a week, and his office the other days of the week from sunrise till nine o'clock in the evening.

Some persons, without my knowledge, had suggested to my father that it was possible for me to be something more

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than a carder of wool and dresser of cloth; and he was induced to apply to Judge Wood to know if he would receive me into his office on trial, for a little time, before I went back to my apprenticeship, and he consented. I knew nothing of this, until, at the dinner table, my mother informed me of it; and the news was so sudden and unexpected that, in spite of myself, I burst out crying, and had to leave the table, much mortified at my weakness. Suffice it to say, I went immediately into Judge Wood's office, and he handed me the first volume of Blackstone's Commentaries, and said, "Thee will please to turn thy attention to this." I commenced reading, but without understanding much that I read. I soon, however, discovered, that I was reading the laws of England, and not of the State of New York. Not having been told that the laws of New York were founded upon the English law, I felt sadly disappointed, as my study seemed a waste of time. I, however, continued to read, as directed; but received no instruction or explanation from Judge Wood. I was occasionally sent out to attend to some business in the country, among the Judge's numerous tenants; and so far as I know I discharged the duty satisfactorily.

When I was about to leave the office and return to my apprenticeship, the Judge said to me, "If thee has an ambition for distinction, and can sacrifice everything else to success, the law is the road that leads to honors; and if thee can get rid of thy engagement to serve as an apprentice, I would advise thee to come back again and study law." But I said, "I have no means of paying my way during the long clerkship of seven years that I must serve, before I can be admitted to practice." He said, "I can give thee some employment in attending to my business in the country; and, if necessary, I will advance thee some money and thee can repay it when thee gets into practice." All this seemed very generous and kind; but how was I to get released from my engagement to serve as an apprentice? To serve out my time, was to waste a precious year and a half in learning a trade that I never intended to follow, and

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to lose so much precious time for the study of the law. I had not the money to buy my time, nor any friend from whom I could borrow it. True, I was not bound by any legal indenture, but I had given my word, and that in my estimation was equal to my bond. So I saw no way in which my rising ambition could be gratified; and I returned, rather dejected, to my apprenticeship. In the mean time, one of my employers, Mr. Cheney, had quit the business and gone to farming. During the summer and autumn I sounded Mr. Kellogg on the subject of purchasing my time; and, finally, he consented to give up my last year, if I would relinquish any claim I might have for the increased compensation which I was to receive for that year, and pay him thirty dollars. I agreed to this, most willingly, and was to pay him as soon as I could earn it. I was then in my twentieth year, and immediately took a school for the winter, borrowing one or two law books from Judge Wood, to read mornings and evenings. When my school closed, I went into his office again, and continued my studies until the next winter, when I took the same school, and at its close, returned to my law studies. During the summer of 1821, the Fourth of July was celebrated in the village of Montville, where I was living, and by request I delivered a short address. I am sure it had no merit, but it gave me a little notoriety in the vicinity, and a gentleman having a suit before a justice of the peace in the adjoining town, came and offered me three dollars to go and pettifog for him. I got leave of absence, and went; but, fortunately for my untried powers, the suit was settled, and I got my first fee without exposing my ignorance.

Judge Wood, however, soon got wind of it, and enquired of me about it; and I frankly told him the whole truth. He said he did not approve of my attending causes before justices of the peace. He instanced several cases of the injurious effect of this, and among others that of Elisha Williams, "who," he said, "would have been an able advocate were it not for the slang he acquired in attending causes before justices of the peace."

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I pleaded my poverty, and the necessity I was under of earning a little something when such opportunities presented. But he was inexorable, and said I must promise not to do it again or we must separate. I became suspicious, and perhaps unjustly, that he was more anxious to keep me in a state of dependence, and use me as a drudge in his business by looking after his tenants, than to make a lawyer of me. But I was resolved to be a lawyer and nothing else. I, therefore, after expressing my gratitude for his favors and my regret at leaving, for it seemed to dash all my hopes, told him with great emotion that I would go. We settled, and I owed him sixty-five dollars, for which I gave him my note, afterward paying it with interest; and this is the only aid I ever received in obtaining my profession.

My father had then become a resident of Aurora, in the County of Erie; and with four dollars in my pocket—three dollars of which was my fee aforesaid—I started for his house, and arrived there the last of August or first of September, 1821; hoping, like Micawber, that something would "turn up." Nevertheless, I was very much discouraged. It so happened that a relative of mine had a suit pending before a justice of the peace, which was to be tried in a few days after my arrival, and he requested me to attend to it, which I did, and succeeded. This brought me somewhat into notice in that vicinity, and I had several other cases during the winter. As the rules of the Court then stood, it required seven years' study in an attorney's office before I could be admitted to practice, and I was therefore desirous of getting into some such office; but no opportunity presenting, I took a school at East Aurora for the winter, and managed to attend several suits before justices on Saturdays, without neglecting my duties as teacher. In the spring of 1822, I came to Buffalo, where I was an entire stranger, and took a district school. This I did to enable me to pay my way, as nothing was then allowed to clerks for their services in lawyers' offices. I soon entered as a clerk in the office of Asa Rice and Joseph Clary in this city. I continued to teach and study until the spring of 1823, when the Court

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of Common Pleas (as a matter of grace), at the solicitation of some of the older members of the Bar, whose acquaintance I had made, admitted me to practice. But, not having sufficient confidence in myself to enter into competition with the older members of the Bar here, I opened an office at East Aurora, where I practised till May, 1830; when I formed a partnership with Joseph Clary and removed to Buffalo, which has ever since been my place of residence.

I was first elected to the Assembly in the fall of 1828; and the rest of my public life is a matter of public record and need not be noticed here.

I was admitted as an attorney of the Supreme Court, in 1827, and as counselor in 1829; and continued my practice up to January 1, 1848, when I relinquished my profession, and entered upon my duties as Comptroller of the State of New York.

I was married to Miss Abigail Powers, daughter of the Rev. Lemuel Powers and Abigail Newland, at Moravia, Cayuga County, on the fifth day of February, 1826; and she died at Washington, March 30, 1853.

I was married again to Mrs. Caroline C. McIntosh, daughter of Charles Carmichael and Tempe W. Blachly, of Morristown, New Jersey, at Albany, February 10, 1858.

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ABIGAIL POWERS FILLMORE.

DIED MARCH 30, 1853.

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GENEALOGICAL DATA RELATING TO

MILLARD FILLMORE'S ANCESTRY

In 1852, replying to an inquiry regarding his ancestry, Millard Fillmore wrote: "Little I believe is known of the genealogy of the Fillmores, as the family has been quite too obscure to make it an object to trace its pedigree. I know nothing beyond my great-grandfather, John Fillmore, who was a native of Ipswich, Mass. It is not improbable, that the name in English was spelt Phillemore, or possibly Filmer, but I have never thought it worth the trouble of an investigation."

In 1857, Dr. Ashbel Woodward of Franklin, Conn., contributed to the *New England Historical and Genealogical Register* a "Memoir of Captain John Fillmore, with a Genealogy of the Fillmore Family." Although compiled fifty years ago, this is, so far as known, the fullest genealogical survey of the family that has been made, and is here drawn on for such data as appear essential to our purpose.

The name is of English origin, and at different periods has been variously written, viz., "Filmer," "Filmore," "Fillamore," "Phillmore" and "Fillmore."

The home of the Filmer family appears to have been East Sutton, Kent, England. The family more originally were from Herst, Parish Otterden, where Robert Filmer resided in time of Edward II., till a descendant, Robert, son of James Filmer, Prothonotary of Court of Common Pleas, in time of Elizabeth, had arms confirmed to him in 1570, viz., *sable, three bars, three cinque foils in chief, or;* died, 1585: and had issue Sir Edward, of Little Charlton, who purchased East Sutton. He married Elizabeth, second daughter of Richard Argall, by Mary his wife, and grand-daughter of Thomas Argall, who died in the sixth year of Edward VI., heir of Sutton.

The first of the name whom we find in this country, was John Fillmore, or Phillmore, "mariner," of Ipswich, Mass., who purchased an estate in Beverly, Nov. 24, 1704, and who was, probably,

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the common ancestor of all of that name in America. He married, June 19, 1701, Abigail, daughter of Abraham and Deliverance Tilton of Ipswich, by whom he had two sons and a daughter.

The father, while on a voyage homeward bound, was taken by a French frigate, and carried a prisoner into Martinique, where he suffered incredible hardships, and, although ultimately redeemed, was supposed to have been poisoned, with many others, by the French, during his passage home. He died before 1711, when his wife, Abigail, is called widow.

The elder of the two sons, John, born March 18, 1702, was early placed by his mother as apprentice to a ship carpenter in Boston. Like most New England boys for many generations—at least, like most of those born within smell of salt water—his one ambition was to go to sea; but it was not until he was nearly twenty-one years of age that his desire was gratified, by shipping in the sloop Dolphin, Captain Mark Haskell of Cape Ann, for a fishing voyage. What therefore befell him is so remarkable that it is worth while to print John Fillmore's own narrative of it, especially as that narrative is one of the curious early publications of Western New York. It appears to have been printed, perhaps in Bennington, Vt., as early as 1804; but the earliest form in which it is known to the present editor is a pamphlet published in 1837 at Aurora, Erie Co., New York, by A. M. Clapp, later a prominent printer and publisher of Buffalo. In 1837 this John Fillmore's grandson, Millard, had removed from Aurora (now East Aurora) to Buffalo; but this publication of his grandfather's adventures was of a certainty known to him. The "Narrative" is reprinted in following pages of this volume from a copy which was in Millard Fillmore's possession for more than thirty years.

Finally free from his pirate companions, Captain John Fillmore, on Nov. 28, 1724, married Mary Spiller of his native town, Ipswich; and having disposed of the paternal home in Beverly, removed to Norwich, now Franklin, Conn., where he had already made a purchase of real estate. His first deed, from Samual Griswold, Jr., conveying some seventy acres on Plain Hill in Norwich, bears date Nov. 9, 1724, in the eleventh year of his Majesty's reign, George the First. The consideration was £103, current money.

Here he resided for many years. About 1734 he married a second wife, Dorcas Day of Pomfret, who died March 16, 1759; a third wife, Widow Mary Roach, survived him. In May, 1750, he was commissioned captain of the 7th Military Company in Norwich. His standing in the community is further testified to by the fact that

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on July 29, 1729, he joined the church under the pastoral care of the Rev. Henry Willes, predecessor of the distinguished Dr. Samuel Nott.

Captain John Fillmore died Feb. 22, 1777, and was buried in the ancient cemetery at Franklin. In his will, dated Sept. 19, 1774, he mentions wife Mary and fourteen surviving children. Most of the articles given to him by the court of admiralty, as the property of the pirate captain, Phillips, were bequeathed to his children; his sword, which had served him in the French war and the Revolution, passed to his son Nathaniel, the father of Millard.

The following genealogy presents the line of descent from the first John Fillmore whose name is found on the records in this country, to the generation of Millard.

GENEALOGY OF THE AMERICAN FILLMORES, TO 1857.

(1) John[1] Fillmore, (2) "mariner," m. June 19, 1701, Abigail, dau. of Abraham and Deliverance Tilton, of Ipswich, Mass., where he purchased an estate. He died on his homeward passage from Martinique, before 1711. His widow m. 2d, Nov. 7, 1717, Robert Bell, and about 1720 removed to Norwich, Conn., having there purchased a tract of forty acres of land of John Elderkin, Jun. Both died the same year, he on the 23d of August, and his wife on the 13th of Nov., 1727.

John[1] Fillmore (1) and Abigail had:

(2) I. John,[2] (5) (whose Memoir is given in following pages) was b. in Ipswich, March 18, 1702, and m. 1st, Nov. 28, 1724, Mary Spiller, also of Ipswich; m. 2d, about 1734, Dorcas Day, of Pomfret, Conn., who died March 16, 1759; and m. 3d, Wid. Mary Roach, who survived him. He d. in Norwich (now Franklin), Feb. 22, 1777.

(3) II. Ebenezer,[2] (21) was b. in Beverly and baptized in Wenham, July 21, 1706; m. Feb. 15, 1732-3, Thankful Carrier, in Norwich, Conn.

(4) III. Abigail,[2] was b. in Beverly, and bap. in Wenham, Aug. 1, 1708; died young.

John[2] (2) and Mary had children b. in Norwich:

(5) I. John,[3] b. ———; united with the 2d church in Norwich (now Franklin), April 18, 1742; m. Leah ———, in Norwich, and settled in Nova Scotia.

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(6) II. Abigail,[8] b. March 28th; m. Nathaniel Kimball, Jun.

(7) III. Mary,[8] b. Aug. 17, 1731, and m. John Taylor and resided in Norwich (now Franklin).

(8) IV. Henry,[8] b. June 28th, and bap. Dec. 2, 1733; m. April 1, 1756, Thankful Downer, in Norwich. About 1760, he resided in Ashford, Conn., but subsequently emigrated to the State of New York.

Next follow children by wife Dorcas:

(9) V. Dorcas,[8] b. Feb. 13, 1735-6, and bap. April 11, 1736; m. Abel Page, blacksmith, and resided in Haverhill, Mass. She inherited the gold rings which were worn by Capt. Phillips, the pirate.

(10) VI. Jemimiah,[8] b. April 1st, and bap. May 8, 1737; d. Dec. 1, 1741.

(11) VII. Miriam,[8] b. Nov. 22, 1738, and bap. Jan. 14, 1739; m. Nathan Colgrove, and settled in Middletown, Vt.

(12) VIII. Nathaniel,[8] (30) b. March 20th, and bap. March 23, 1739, '40; m. Oct. 20, 1767, Hepzibah Wood, who was b. April 14, 1747. He settled early in Bennington, Vt., then called the Hampshire Grant, where he resided till his death in 1814. He served in the French war, and on being wounded and left in the woods subsisted for near a week on a few kernels of corn and upon his shoes and a part of his blanket which it is said he roasted and ate. He was finally discovered and assisted by his party. He also served in the war of the Revolution, and distinguished himself as a Lieutenant under Stark in the battle of Bennington.

(13) IX. Comfort,[8] (36) b. January 25th, and bap. March 14, 1742; m. June 22, 1763, Zerviah Bosworth, who was b. Feb. 26, 1748. He resided in Norwich (now Franklin), where he died Jan. 24, 1814; by occupation a farmer.

(14) X. Amaziah,[8] b. Nov. 23, 1743. He joined the expedition against Cuba in 1762, and was present at the reduction of Havana, where he died shortly after of fever.

(15) XI. Mimee,[8] b. Jan. 3, 1745-6, and m. Nathan Dillings.

(16) XII. Lydia,[8] b. Nov. 15, 1747, and m. Jacob Pember, and resided in Norwich (now Franklin).

(17) XIII. Luther,[8] (50) b. Jan. 14, 1749, '50, and m. about 1770, Eunice ———. He emigrated early to Middletown,

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Vt., where he continued to reside till the time of his death in February, 1809; a farmer.

(18) XIV. Calvin,[3] b. Feb. 24, 1752, and d. March 14, 1753.
(19) XV. Deborah,[3] b. June 21, 1755.
(20) XVI. Deliverance,[3] b. Jan. 2, 1757.

Ebenezer3 (3) and Thankful had children b. in Norwich:

(21) I. Hannah,[3] b. Nov. 14, 1733.
(22) II. Thankful,[3] b. Nov. 22, 1736.
(23) III. Ebenezer,[3] b. August 5th, and bap. Sept. 21, 1740.
(24) IV. Richard,[3] b. July 28, 1742.
(25) V. Benjamin,[3] b. Jan. 25, 1744.

John,3 (5) and Leah had children b. in Norwich:

(26) I. Margaret,[4] b. May 16, 1748, and d. April 26, 1753.
(27) II. Abigail,[4] b. April 21, 1750.
(28) III. Spiller,[4] b. Feb. 6, 1752, and d. April 27, 1753.
(29) IV. 2d Spiller,[4] b. March 6, 1754.

Nathaniel3 (12) and Hepsibah had:

(30) I. Simeon,[4] (59) b. in Bennington, Dec. 13, 1768, and m. 1st, Susanna Glezen, who d. Dec. 31, 1825; m. 2d, March 18, 1828, Wid. Lucy Pelton. Early in 1790, he removed to Paris (now Kirkland), N. Y., at which time Fort Schuyler (now Utica), contained but two families. In 1811, he removed to Clarence, Erie Co., where he d. April 30, 1848. Early in life he spent several years in teaching, and afterwards acted as Town Clerk, Supervisor, Justice of the Peace, etc.

(31) II. Nathaniel,[4] (64) was b. in Bennington, April 19, 1771, and m. 1st, Phœbe, dau. of Doc. Abiathar Millard, also of B., who d. May 2, 1831; m. 2d, May, 1834, Wid. Eunice Love, with whom he still lives. He is by occupation a farmer and has resided successively at Locke, Sempronius and Aurora, N. Y., which last is now his home. He has been for many years a Civil Magistrate, and as a citizen has been much respected.

(32) III. Philippia,[4] b. March 22, 1773.

(33) IV. Calvin,[4] b. in Bennington, April 30, 1775, and m. Dec. 12, 1797, Jerusha Turner, who d. in Aurora, Jan. 4, 1852, s. p. Is by occupation a farmer, and resides in Au-

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rora, N. Y. During the last war with England he had command of a company which was frequently called into service upon the Niagara frontier. On one occasion he volunteered with a part of his company to cross the lines, and was engaged in a picket fight back of Fort George, in which they were successful and took some prisoners. He was subsequently promoted to a colonelcy. Has acted as Coroner, Deputy Marshal, and in 1824, was a member of Assembly. Is fond of books, especially of the class of Shakespeare and Peter Pindar. [Died at East Aurora, Oct 22, 1865.]

(34) V. Elijah,[4] b. in Bennington, April 8, 1778.

(35) VI. Darius,[4] b. in Bennington, Sept. 28, 1781.

Comfort[3] (13) and Zerviah had children b. in Norwich:

(36) I. Artimesia,[4] b. Feb. 9, 1764; m. September, 1782, Isaiah Armstrong, and resided in Franklin.

(37) II. Amazial,[4] (73) b. Sept. 26, 1765, and m. Dec. 21, 1786, Hannah Ladd. Resided in Franklin, where he d. April 5, 1847. He was for many years a local preacher of the M. E. church.

(38) III. Lavius,[4] (82) b. Oct. 1, 1767, and m. Sept. 8, 1791, Philura Hartshorn. Resided in Middlebury, Vt.; was by occupation a master builder, and was at some periods extensively engaged in erecting church edifices.

(39) IV. Brunetta,[4] b. Nov. 16, 1769; m. Dec. 16, 1787, Levi Hazen, and resided in Rome (now Lee), N. Y.

(40) V. Earl,[4] b. Sept. 26, 1772, and d. June 6, 1776.

(41) VI. Septa,[4] (92) b. Oct. 13, 1774; m. Dec. 21, 1797, Eunice Edgerton, and resided in Chazy, N. Y., where he was the proprietor of a large hotel, during the last war with England. He held the command of colonel at Plattsburg, and was not only actively engaged in repelling that assault of the enemy, but continued in the service to the end of the war. While in the field his own house was plundered by the enemy, and his family impelled to seek refuge by flight.

(42) VII. 2d Earl,[4] b. Dec. 21, 1776; m. February, 1799, Betsey D. McHeague. He resided in Rome (now Lee), N. Y., where he d. Sept. 28, 1814. He served as a Captain

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in the early part of the war of 1812, his post of duty being at Sackett's Harbor.

(43) VIII. Zerviah,[4] b. Feb. 28, 1779; m. May 7, 1798, Joshua Bushnell, and resided in Rome (now Lee), N. Y.

(44) IX. Adam,[4] b. March 1, 1781; m. September, 1801, Anna Hartshorn, and resided in Rome (now Lee), N. Y., by occupation a farmer.

(45) X. Eunice,[4] b. Aug. 29, 1783; m. Oct. 3, 1802, Asa Kingesley.

(46) XI. Theodosia,[4] b. Nov. 21, 1785; m. Jan. 1, 1804, Thomas Pember, and resided in Franklin, where she d. Jan. 26, 1831.

(47) XII. Harriet,[4] b. Nov. 14, 1788; m. John Humiston, and settled in Vienna, N. Y.

(48) XIII. Laura,[4] b. July 1, 1790; m. June 31, 1811, Walter Giddings, and continued to reside in Franklin, where she d. July 30, 1827.

(49) XIV. Comfort Day,[4] (103) b. July 8, 1792; m. March 16, 1813, Annice Bailey. He has till within a few years resided upon the paternal homestead which was also the residence of Capt. John[2] Fillmore. He has in his possession the "gun" which was once the property of the pirate Phillips. He held many civil offices, having represented his native town several times in the State Legislature. Is also a local preacher of the M. E. church. His present house is in Lisbon, Conn. [In this and other cases, the data are not continued beyond 1857.]

Luther[3] (17) and Eunice had:

(50) I. Esther,[4] b. in Norwich, Oct. 8, 1772.

(51) II. Ethni,[4] b. in Middletown, Vt.; d. in ———, Jefferson Co., N. Y., a few years since; farmer; had one son and seven daus.

(52) III. Daniel,[4] b. in Middletown, and now resides in Highgate, Vt.; farmer; has two sons and two daus.

(53) IV. John,[4] b. in Middletown, Sept. 25, 1781; m. February, 1803, Huldah Whitmore. By occupation a blacksmith; d. Feb. 23, 1822, leaving seven sons and three daus.

(54) V. Amaziah,[4] b. in Middletown; removed to Jefferson Co., N. Y., in 1812, where he d. lately, leaving children.

(55) VI. Bulah,[4] b. ———.

(56) VII. Lavinea,[4] b. ———.

(57) VIII. Eunice,[4] b. ———.

(58) IX. Deliverance,[4] b. ———.

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Simeon[4] (30) and Susanna had:

(59) I. Glezen,[5] b. in Bennington, Dec. 22, 1789; m. Sept. 20, 1809, Lovina Atwill, in Whitestown, N. Y. He was licensed as a local preacher in 1809, which constituted him, we believe, the first licensed minister of any denomination west of Genesee River, in the State of New York. He joined the Genesee Conference in 1818, and three years after was appointed Presiding Elder. He now resides in Clarence, and travels Niagara district.[1]

(60) II. Sherlock,[5] b. in Paris, N. Y., Jan. 1, 1793; m. 1st, Jan. 9, 1817, Lois Slosson, who d. Feb. 21, 1844; m. 2d, Orra Hamlin. Was on the Niagara frontier repeatedly during the war of 1812, and served as a Captain. He has been a magistrate. Is now a farmer, and resides in Clarence, N. Y.

(61) III. Hiram,[5] b. in Paris, April 6, 1801; m. Dec. 13, 1838, Julia A., wid. of Doct. Webster, and dau. of Dr. Baldwin, of Onondaga Co., N. Y. Now resides in Michigan.

(62) IV. Asahel Norton,[5] b. in Paris, Oct. 19, 1807; m. 1st, April 8, 1833, Lydia A. Webster, of Buffalo, who d. July 28, 1836; m. 2d, Aug. 22, 1837, Lovina F. Atwill. In 1830, was licensed to preach, since which he has been successively ordained as a deacon and Elder by Bishop Hedding. In 1839 he became secretary of the Genesee Conference, which case he continued to fill till the Conference was divided in 1848, when he was appointed Presiding Elder on the Seneca Lake Dist. in East Gen. Conf. Is the author of a work on "Church Polity." Present res. Waterloo, Seneca Co., N. Y.

(63) V. Harriet,[5] b. in Paris, Jan. 1, 1811; m. April 17, 1827, John Conly.

Nathaniel[4] (31) and Phoebe had:

(64) I. Olive Armstrong,[5] b. in Bennington, Dec. 16, 1797; m. March 7, 1816, Henry S. Johnson; farmer at Sempro-

1. The reader must bear in mind that these records were prepared in 1857. The Rev. Glezen Fillmore died at Clarence, N. Y., Jan. 26, 1875. His wife, Lavina, survived until Sept. 3, 1893, passing away at 106 years, the oldest resident of Erie County at the time of her death.

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MILLARD POWERS FILLMORE.

BORN APRIL 25, 1828. DIED NOVEMBER 15, 1889.

From an early daguerreotype, probably about 1850, when he was private secretary to his father, the President.

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nius; has had five sons and dau.; now resides in Dexter, Mich., a wid.

(65) II. MILLARD,[5] b. in Locke (now Summer Hill), Jan. 7, 1800; m. Feb. 5, 1826, Abigail Powers, at the village of Moravia, where she then resided. She d. March 30, 1853, at the City Hotel, Washington, and was buried in Forest Lawn Cemetery, in the City of Buffalo. Her genealogy will be found in the *Leland Magazine*, at pages 113 and 114. The incidents in the life of President Fillmore are also correctly narrated in the same sketch, and also in the fourth vol. of the Statesman's Manual, p. 1917 of the edition of 1852, published in New York, by Edward Walker, and likewise in the Lives of the Presidents, published by G. H. Salisbury, at Brattleboro', Vt., 1852. He has had a son and daughter, the former Millard Powers[6] was b. at Aurora, April 25, 1828; is by profession a lawyer, and acted as private secretary for his father during his Presidential term. Mary Abigail,[6] the daughter, was b. in Buffalo, March 27, 1832.[1]

(66) III. Cyrus,[5] b. in Locke, Dec. 22, 1801; m. May 19, 1825, Laura Morey, in Holland, N. Y. Resides in Greenfield, Ind.; a farmer; has had three sons and three daughters.

(67) IV. Almon Hopkins,[5] b. in Sempronius (now Niles), April 13, 1806; and d. at Aurora, Jan. 17, 1830; a student at law.

(68) V. Calvin Turner,[5] b. in Sempronius, July 9, 1810; m. 1830, Miranda Waldo. Resides near Ann Arbor, Mich.; by occupation a carpenter.

(69) VI. Julia,[5] b. in Sempronius, Aug. 29, 1812; m. Oct. 27, 1840, A. C. Harris; a lawyer by profession, and res. at Toledo.

(70) VII. Darius Ingraham,[5] b. in Sempronius, Nov. 16, 1814, and d. at Aurora, March 9, 1837; a student at law.

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1. The following data relating to Millard Fillmore's own family, may be added: His father, Nathaniel, died at East Aurora, N. Y., March 28, 1863. Millard's daughter, Mary Abigail, died at East Aurora, whither she had gone on a brief visit, July 26, 1854. Millard Fillmore died in Buffalo, March 8, 1874. His second wife, Caroline C., survived until Aug. 11, 1881; and his only son, Millard Powers, remained a bachelor, making his home in Buffalo, until his death, Nov. 15, 1889.

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(71) VIII. Charles DeWitt,[5] b. in Sempronius, Sept. 23, 1817; m. Feb. 11, 1840, Julia Etta Green; is by occupation a mason, and res. at St. Paul, Minn. [Died July 27, 1854.]

(72) IX. Phœbe Maria,[5] in Sempronius, Nov. 23, 1819; d. unmarried at Adrian, Mich., July 2, 1843.

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A

NARRATIVE

OF THE

SINGULAR SUFFERINGS

OF

JOHN FILLMORE

AND OTHERS,

ON BOARD THE NOTED PIRATE VESSEL COMMANDED BY

CAPTAIN PHILLIPS:

With an Account of their daring Enterprise, and happy Escape the tyranny of that desperate Crew, by capturing their Vessel.

Let fiction drop, let scenes like these be read,
And virtue shudder while it reads with dread:
Yet realize a sovereign Power presides,
And for the tempted orders and provides—
Restrains the wrath of men, and guides the ways
Of desperate gangs to issue in his praise.

AURORA:
PRINTED BY J. M. CLAPP.
1837.

[Facsimile of title-page of John Fillmore's "Narrative," 1837.]

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INTRODUCTION

MR. JOHN FILLMORE, *the principal subject of the following narrative, was an early settler in Norwich, Connecticut, where he sustained the character of a virtuous and industrious citizen, and by a relation of the incidents of his unfortunate seafaring excursions, frequently raised the admiration and excited the sympathetic feelings of his neighbors; while by ascribing his deliverance to the overruling hand of Providence, his solemnity induced praise, and the agitation of his bosom occasioned the feeling tear to flow from his own eyes, and the eyes of his audience.*

Mr. James Cheeseman, returned to England, where he was rewarded by the British government, and enjoyed until his death, the place of quartermaster in the King's dock yard at Portsmouth. He sustained thro' all the character of a serious man, and like his fellow sufferer, Fillmore, lived beloved, and died respected.

BENNINGTON (VT.), SEPT., 1804.

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NARRATIVE, ETC.

The depravity of the human mind is so universally acknowledged in the present enlightened age, and the belief of the universal presidency of Providence over the affairs of men so evidently established, as to need no argument to enforce the reception of a narrative in which both are peculiarly manifest.

Convinced of the truth of the above sentiment, I shall proceed in my narrative, endeavoring on the one hand to avoid tedious repetitions, and on the other to omit no incident that may afford entertainment to my courteous reader.

My father dying when I was young, my mother put me apprentice to learn the trade or occupation of a carpenter. On the other side of the road, opposite to the house where I lived, there dwelt a tailor, who had an apprentice named William White, with whom I was intimate during the time of his apprenticeship; but he was out of his time, and went to sea some time before I was free, being about three years older than myself.

White did not return as was expected, nor do I remember that I ever saw or heard of him afterwards till I found him among the pirates.

From my youth I had an almost irresistible desire for undertaking a voyage to sea, which I resolved at all events to gratify, as soon as I obtained a right to dispose of myself. In establishing this resolution, a love of novelty, joined to a secret delight I enjoyed in hearing sailors relate the curiosities they met with in their voyages, doubtless had a great effect, and the older I grew, stronger became the impression.

But however strong my desire was to follow the sea, a sense of duty I owed my surviving parent, so far overbalanced my inclination, as to occasion me to form a determination not to gratify it until I should be of age, unless I could gain her consent. The propensity, however, was so strong, as to induce me at the age of seventeen, to apply to my mother, and request her liberty to go a voyage to sea. My mother was very uneasy at the request, and used every art of persuasion that maternal tenderness could dictate, to induce me to

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relinquish the design; expressing some surprise that I should entertain any idea of following the sea, as it was a life most evidently attended with innumerable fatigues and dangers; urging as a particular reason for her disapprobation of the measure, the melancholy fate of my father, who, being a seafaring man, was taken by a French frigate, on a voyage homeward bound, and carried into Martinico, a number of years before, where he underwent all the hardships of a close and cruel confinement, and although ultimately redeemed with many others, was supposed to be most inhumanly poisoned by the French, on board the cartel, as they principally died on their passage home.

However strong an argument this might have appeared to my mother, it failed of its desired effect on me; it only lulled my desire for a while, but by no means eradicated it. I waited, however, with a great degree of patience about two years longer, when I again asked leave to go a voyage to the West Indies, and my mother finding my resolution unabated, concluded she could as well part with me then as when I became of age, after which she imagined she should not be able to detain me. Upon the whole, she told me she was unwilling I should go to the West Indies, but that the sloop, Dolphin, Capt. Haskel, was then in the harbor, fitting out for a fishing voyage, and if I would go with him she would give her consent. To this proposal I readily assented.

I accordingly shipped on board the sloop, and had a tolerable passage to the fishing ground; but soon after our arrival there, we were surprised by the appearance of a ship which, from external signs, we suspected to be a pirate. We were not by any means prepared to oppose so formidable an enemy, and she was so close upon us before we suspected her, as to render it impossible for us to escape by running away, we were therefore obliged to abide our fate peaceably, let the consequence be what it would.

The pirate soon came up and sent a boat on board our sloop, demanding who we were, and where we were bound? To which our Captain gave a direct answer. By this boat's crew we learned that the noted pirate, Captain Phillips, commanded their ship. This intelligence, it will readily be conceived, gave us great uneasiness, most of our crew being quite young. Having often heard of the cruelties committed by that execrable pirate, made us dread to fall into his hands.

The pirate's boat soon boarded us again, demanding the name of every hand on board. In this boat came WHITE, the tailor, with whom I had been acquainted during his apprenticeship, as before mentioned. I was greatly surprised to find him employed in so

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criminal a course of life, though I said nothing of the matter to him. On the return of the pirate's boat with a list of our names, White, as I was afterwards informed, acquainted Phillips of his knowledge of me, informing him, that if he could engage me in his service, he would gain a good, stout, resolute fellow, every way, he supposed, such a hand as he wanted.

On receiving this information, as he stood in need of a hand, and found we had no property he wanted on board, he sent his boat once more, with orders to Capt. Haskel, to send me on board his ship, and the rest of his crew, with the sloop, may go free. My worthy commander, with much visible concern in his countenance, took me aside, and informed me of Phillips' orders, adding, that although it would be exceedingly disagreeable and painful to him to let me go, yet we were entirely in the power of a bloody, merciless ruffian, and had no hopes of escape, but by giving me up, I believe, says he, you must go and try your fortune with him.

The thought of being sacrificed, as it were, to procure liberty for the rest of the crew, operated greatly upon my spirits, and the conclusion I drew up was, that I would not, on any conditions, agree to go on board the pirate. I therefore told my Captain that I had ever been faithful to his interests and commands, that I had always wished to do my duty punctually and well, but that I was determined not to go on board the pirate, let the consequence be what it would. Our conversation ended here, for that time, and the boat returned without me.

Phillips was greatly incensed when the boat returned without me, and sent again, with orders to bring me either dead or alive. My Captain took me aside again, and told me the pirate's resolution and message, adding, that he believed I should do well to go with them, for if I refused to go, and made resistance, it would be inevitable death to me, and probably to our whole crew. He urged further, that my submitting would prove the certain release of the rest of the crew, and there would be at least a probability of my making an escape from them at some time or other; but if I could not find a way to escape, it was not impossible but Phillips might discharge me, for he had sent word that if I would agree to serve him faithfully for two months, he would then set me at liberty.

Those only who have been in similar circumstances can form any adequate idea of the distress I experienced at this time. If I obstinately refused to join the pirates, instant death stared me and my comrades in the face; if I consented to go with them, I expected to be massacred for refusing to sign the piratical articles, which I had fully determined never to do, though I should be put to the extremity

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of torture for refusal. Into so critical a situation had my bad fortune plunged me, that inevitable destruction seemed to stare me in the face from every quarter.

I took the matter, however, into serious consideration, and after the most mature deliberation determined to venture myself among them, rather than bring the vengeance of the pirates upon my comrades; I therefore went with them, seemingly content, and the Captain renewing his promise to set me at liberty in two months, I engaged to serve him to the best of my abilities during that term.

I was likewise agreeably disappointed in their not urging so strenuously as I expected, the thing I most of all dreaded, viz., the signing of the articles. To induce me to join them, they used more arguments of a persuasive than a compulsory nature, judging, I suppose, that youth would be more easily enticed than compelled to join in sharing their ill-gotten gain.

When I first went on board the pirate, their crew consisted of ten men, including the Captain; and the whole of them I think, as stout, daring, hardy-looking fellows as I ever saw together. As I was then the only hand on board who had not subscribed to their articles, the Captain assigned me the helm, where I kept my station during the greatest part of the time I stayed with them.

No captures of any consequence were made during the first two months. Some small vessels were taken, but their loading was too inconsiderable to satisfy the insatiable disposition of the pirates.

The period being now arrived, when I had a right according to agreement, to demand my liberty, I thought it a proper season at least to remind the Captain of the manumission he had engaged me. For this purpose I went to him, and in language the least offensive that I could frame, reminded him of his promise and requested him to fulfill it. Phillips, in tolerable good humor, replied, that we had done but little business since I came aboard; that he could not well spare me yet, but if I would stay with him three months longer, he would then set me at liberty, *upon his honor;* and I was obliged quietly to comply with his demands, and trust to his honor, though it turned out in the end that he did but mock me.

Nothing of importance occurred during these three months. Some few small vessels were taken and plundered; their cargoes were of no great value, and their hands were dismissed with their vessels, except two or three robust, stout looking men, whom Phillips picked from among them, and compelled to sign his articles.

When the three months were expired, I went to the Captain, and once more reminded him of the expiration of my servitude, and handsomely requested him to set me ashore, according to his promise, that

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I might go to my mother, who had not heard from me since my first Captain returned from his fishing voyage.

"Set you at liberty! damn you; you shall be set at liberty when I'm damned, and not before," replied Phillips, in a rage more compatible with the diabolical disposition of an infernal fiend, than a being endowed with a rational soul, susceptible of human sensations.

It is evident, and experience daily evinces, that persons by habituating themselves to any particular vice, become so familiarized thereto, as to be unable to distinguish it from a real virtue; and in such case, conscience ceases to alarm the understanding, and suffers the culprit to pursue it to its extremity. This was undoubtedly the case with Captain Phillips, who was not addicted to one particular vice, but to every vice.

Having now lost all hope and probability of being liberated, there was no alternative more eligible for me than to sustain my servitude with as much patience, resolution, and fortitude as possible. Although the Captain had asserted that I should not be set at liberty till he was damned, I was still in hopes that we might be taken by some vessel, or that we might take more prisoners, who, in concert with myself, might be able to contrive some plan whereby we might take the ship, and thereby incapacitate Phillips to determine whether I should obtain my freedom before he received his final doom or not.

As we were sailing one day, we came within view of a fine merchant vessel, the appearance of which pleased the Captain much, who swore by Heaven he would have it. I was ordered to bear off for her as direct as possible. Phillips, being extremely anxious for taking this vessel, walked the deck with his glass in his hand, viewing her the greatest part of the day, and damning me because, as he said, I did not steer so well as I might.

Eleven holes he cut through my hat and the skin of my head, without the least provocation, with his broad sword. But the merchantman being light built, and completely rigged, left sight of us before night. Phillips exclaimed in a horrid rage, that the loss of that fine ship was all my damn'd doings; adding, that he wanted the damn'd thing just long enough to sail to hell in.

We had several prisoners on board, Frenchmen and negroes; we had also an American, with whom I had been intimately acquainted when young, and whom the pirates could not persuade or compel to sign their articles. Thus fortune had sent me one friend with whom I could sympathize under my almost insupportable calamities; though our sympathy was chiefly confined to looks and private gestures, for we durst not complain in the hearing of the crew.

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About the end of the seventh month from my entering on board, we took a merchantman belonging to Boston, Captain Harridon commander, a young man about twenty-two years of age. The father of this young man was a merchant in Boston, and had given his son the education requisite for a mariner, and sent him to the West Indies, Captain of this vessel, in which he was returning home when we took him.

All except Harridon, James Cheeseman, a ship carpenter, and a Spanish Indian, who was taken with Harridon, the friend alluded to above, and myself, had been compelled to sign the pirate's articles. We had been enjoined to sign them, but had utterly refused, choosing rather to be killed by the villains than to be taken, condemned and executed, for being their associates. But I suppose they thought we might be serviceable to them, and therefore deemed it best not to dispatch us yet.

One day we took a large vessel after considerable trouble in chasing, but found nothing on board worthy the attention of the pirates, except their provisions and water, which being in some want of, Phillips stript of it entirely, took out one or two of their hands, and let them go.

Some of the pirates having been sent on board of Harridon's vessel, there remained only six of the old pirates on board, besides those who had been forced to sign their articles; and as there were five of us who wished to escape from them, we began to think and even suggest trying some scheme to effect that purpose. There was no time that we could confer together without being discovered, except in the dead of night, and even then we durst not be all together, and consequently could not, without great difficulty succeed in forming any regular plan to effect our escape.

One day we came in sight of a merchantman which Phillips imagining would prove a valuable prize, gave orders for chasing. His orders were put into execution immediately, but the merchantman being light built, and a prime sailor, we chased her three days before we were able to capture her. Having made what disposition he pleased of the hands, &c., he found on board the new prize, Phillips ordered one Fern, a daring, resolute fellow of the old pirate crew, to go on board of her, and take command, taking some of the old crew along with him.

Phillips had now become so extremely arbitrary as to be hated by his own crew, but they stood in such dread of him that they durst no more contradict his orders than they durst to die. Soon after night came on, Fern proposed to the pirates with him, that as they were now in possession of a fine vessel, every way fitted for a

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cruizer, and as good sailor as Phillips', if they would join him, he would put out his lights and steering by the light of the old pirate, make their escape from the tyranny of Phillips, and set up for themselves. The crew accordingly joined, and they began to execute their plan, but Phillips suspecting their design, on finding they darkened their ship, put out his own light, and endeavored to follow them; in which design he succeeded so well as to be in sight of them the next morning. We continued to chase the new pirate till the third day, before we came up with her, when a fierce engagement ensued; but Fern soon finding himself overpowered, and no hope of escape, sent word to Phillips, that if he would grant him pardon, he would strike to him, and once more serve him faithfully; but if not, they would all fight till they died. Phillips immediately complied with their demand and sent orders for Fern to come aboard his ship, which he did; and Phillips, not regarding his engagement to pardon, immediately ran his sword through his body, and then blew his brains out with his pistol, and thus glutted his own vengeance, and ridded us of a desperate enemy.

I mentioned before, that there were five of us who had not signed the pirate's articles; and as Phillips, by killing Fern, had left but five of the old pirate crew alive, we began to conceive it a proper opportunity to make our escape. We were, however, exceedingly cautious, and had not yet an opportunity to communicate our plans to my New England friend before mentioned; yet conscience made the pirates suspicious of something of the kind being in agitation, and from the consequent murderous procedure of Phillips, we had reason to apprehend they had in reality discovered our intentions.

My friend, the American before mentioned, being on board the vessel lately taken from Captain Harridon, Phillips ordered out a boat, and went on board, where he accused him with joining a plot, assisted by me, to kill him and all his crew, and take the vessel. My friend solemnly denied the accusation, and declared he knew nothing of such a plan, (which was in fact the case; for I afterwards learned that there had been nothing said to him about it). This reply, however true, did not mitigate the Captain's passion in the least, for he damned him, and swore he would send him to hell, and instantly ran him through the body with his sword, in such a manner that he twisted the point of it off, leaving it in his back bone.

My friend, I suppose, not being conscious of having received his death wound, still denied the charge, and with great earnestness begged that his life might be spared; but the Captain, whose insatiable thirst for slaughter was not sufficiently gorged, damned him, presented his pistol and shot him through the head, exclaiming, I

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have sent one of the devils to hell; and where is Fillmore? he shall go next. I was then ordered to go aboard Harridon's vessel.

My long familiarity with, and constant apprehension of death, rendered its near approaches less terrifying than formerly; but I did not receive this sentence without heart rending sensations, and thrilling emotions of trepidation and fear. But Phillips was completely despotic and there was no such thing as evading his commands; I therefore drew up a resolution, that if I found he was bent on my death, I would sell my life as dear as possible, and endeavor to kill him first. With this resolution, and as much fortitude as I could muster, I went on board to Phillips, and stood by a handspike that lay on the deck. Phillips charged me, as he had done my friend, with contriving to betray him, and take the ship. The accusation was true enough, but I concluded a lie was warrantable in that case, and consequently replied, that I knew nothing of any conspiracy either against him or his crew. I had prepared to make resistance, in case he offered any abuse; but he had a pistol concealed under his coat, which he presented to my breast, and snapped it, before I had time to make any evasion; but happily for me it missed fire. He drew it back, cocked, and presented it again, but I struck it aside with my hand, so that it went off by my side, without doing any injury.

I thought of knocking out his brains with the handspike that lay near me, but I knew it would be instant death for me, and therefore concluded if he would leave me, I would not meddle with him at that juncture. He then swung his sword over my head, damned me, and bid me go about my business, adding, that he only did it to try me. These last words raised my spirits one degree higher than they had been before; for I confess I thought that snapping a loaded pistol at a man's breast, was a harsh mode of trial, and such an one as I had by no means been accustomed to before. I stopped to take up the handspike, thinking to try him with the butt end of that; but upon a moment's consideration, concluded to let the matter rest a little longer, and watch for a more convenient opportunity to resent the injury. The pistol missing fire when snapped at my breast and then going off by my side, was a strong indication to me that Providence had interposed graciously in my preservation, that our final deliverance from the barbarity of the savage Phillips, and his abandoned banditti, might be more speedily effected.

A few weeks now ensued which were spent in tolerable good humor and peace among all hands on board, and myself and friends put on the semblance of content as much as possible, though we were incessantly seeking opportunities to confer with each other upon

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some mode of escape; but no proper opportunity occurred, nor indeed were our measures properly concerted as yet.

Again we were called upon to sign their flagitious articles, and become willing members of the piratical band, with menaces of immediate death in case we still refused; but we had heard their threats too often to be frightened into compliance with them now.

A short time after this, being about nine months after I was taken, and about two from the time we fell in with and made prize of the vessel on board of which Harridon was taken, the crew, in commemoration of some signal advantage which they had obtained, had a grand carouse, eating and drinking, and spending the day in such diversions as their gross inclinations required. A favorable opportunity now seemed to offer to extricate us from our suffering, and we determined to improve it if possible. Cheeseman was ordered by Phillips, to bring some tools on deck, and do something towards repairing the ship early next morning, and the master was ordered to take an observation next day at noon, to find out where we were. Thus far Providence seemed to favor our design, and we felt firm in the determination of executing it the next day.

It was late in the evening before the pirates retired to rest, and White and one more of the pirates got in the caboose, as drunk as beasts, and lay down before the fire; a favorable opportunity now seemed to offer for us to improve in conferring upon some means for our escape. We got together, held a consultation, and concluded to risk our lives in trying to work our deliverance, concluding that we had better die in so just a cause, than share the fate of our New England friend, which we had no doubt would soon overtake us, if we persisted in our determination never to sign their articles or share in their unlawful gain.

When I mention that we had determined on an immediate execution of our design, I would inform the reader that there was but three of us, Cheeseman, myself, and the Spanish Indian before mentioned; for poor Harridon declared, that his heart was broken, his resolution and courage gone by a series of ill usage, and that he durst not engage to assist, but would not discover our plot. Thus there remained only three of us to engage the whole crew, and the Indian we felt rather dubious about, though we gained a confidence in him from his having firmly refused several times, though threatened with immediate death, to subscribe the piratical articles. However, I must do him the honor to say he was true to his trust; and had it not been for him, our plot would most probably have failed in the execution.

Cheeseman, the Indian, and myself, got together, and agreed that Cheeseman should leave his broad axe on the main deck when he had

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done using it, and when I saw Cheeseman make ready to grasp the master, I was to catch it up, and make the best use of it I could, cutting and slashing all that offered to oppose me, while the Indian was to stand ready to help, as occasion might require. And each one of us, in the mean time, was to do everything he could think of to forward the design.

Our plan being thus concerted, I went down into the caboose, where White and John Rose Archer, a desperate fellow who had been taken in one of the prizes, and immediately joined the pirates, laid on the floor, as before mentioned, drunk as beasts. I took fire and burnt these two villains in the feet, while they lay senseless, so badly as to render them unable to be upon deck next day. There were only four now left of the old pirate gang, and five who had joined them since, besides the two I had rendered incapable of injuring us.

We were up early in the morning, and Cheeseman used the broad axe, and left it as agreed. It was very late in the morning, and the pirates were none of them up, and we were afraid they would not arise until too late to take an observation, and our plan of consequence must fall through. To prevent this, about ten o'clock I went to the cabin door and told the Captain the sun was almost up to the meridian. Damn you, said he, it is none of your business. This was all the thanks I got, and indeed all I expected for my service. However, it answered the end designed, for the Captain, Master, Boatswain, and Quarter-master, came upon the deck, a little after eleven o'clock. Enquiry was made for White and Archer and their burns imputed to accident. Harridon was nearly dead with fear, and the Indian became so near as white as any of us. Phillips took notice of Harridon's paleness, and I cloaked the matter by informing him, that Harridon had been sick all night, and I believed a dram would help him. Phillips told me to go to his case and get a bottle of brandy; which I did, and we all drank heartily except the Indian, who refused to taste a drop, though something apt to drink at other times.

The important crisis drew near, when three of us were to attack the whole crew; the Master prepared to take his observation, and Cheeseman was walking the deck with a hammer in his hand. The Quarter-master was in the cabin, drawing out some leaden slugs for a musket, and the Spanish Indian stood by the cabin door. The Captain and Boatswain stood by the mainmast, talking upon some matters, and I stood partly behind them, whirling the axe around with my foot, till my knees fairly smote together.

The Master being busied, I saw Cheeseman make the motion to heave him over, and I at that instant, split the boatswain's head in

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twain with the broad axe, and dropped him upon the deck to welter in his gore. Before the Captain had time to put himself in a posture of defence, I gave him a stroke with the head of my axe, which partly stunned him; at which time Cheeseman having despatched the Master overboard, came to my assistance, and gave the Captain a blow with his hammer, on the back side of his head, which put an immediate end to his mortal existence.

The Quarter-master hearing the bustle, came running out of the cabin with his hand up to strike Cheeseman with his hammer, and would probably have killed him, had not the Indian catched him by the elbow, as he was bringing the hammer down, and there held him, until I came up and gave him a blow on the back side of his head, cutting his wig and neck almost off, so that his head hung down before him.

We had now despatched all the old pirates except White, and demanded a surrender of the vessel, which was granted, and the poor Frenchmen and negroes came to us and embraced our legs and feet, begging for their lives.

We carried the vessel safely into Boston, where White, Archer, and one more of the pirates were tried, condemned and executed; the three other pirates were sent to England, with the vessel, with whom my friend Cheeseman and the Indian went likewise, whom government liberally regarded for their services, and gave Cheeseman an honorable berth in one of the king's shipyards; the three pirates who went home with the vessel, were hung at execution dock, and the vessel was made a prize of by government.

I never saw any of the human species more spiteful than White was, from the time he was taken till he was executed. I believe he would have killed me at any time in that interval, had it been in his power.

The honorable court which condemned the pirates gave me Captain Phillips' gun, silver hilted sword, silver shoe and knee buckles, a curious tobacco box, and two gold rings that the pirate Captain Phillips used to wear.

When we came in sight of the castle near Boston, we hoisted our pirate's colors and fired a gun, as a signal for them to come off to us. At this time some of the pirates were on deck, and one of them asked leave to fire another gun, which being granted, he would not swab the gun out nor have the vent stopped, but put in the cartridge, and stood directly before the muzzle to ram it down, by which means the cartridge took fire and blew him into pieces; it is supposed he did this purposely, in order to escape the punishment which he knew must be his lot in case he was carried into the harbor.

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MARY ABIGAIL FILLMORE.

BORN MARCH 27, 1832. DIED JULY 26, 1854.

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MILLARD FILLMORE

IN THE LEGISLATURE

OF NEW YORK

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MR. FILLMORE'S SERVICE IN

THE NEW YORK LEGISLATURE

In the fall of 1828 Mr. Fillmore was elected member of the New York State Assembly from Erie County. During his service in that body, the county, which then consisted of two districts, was represented as follows:

1829. David Burt, Millard[1] Fillmore.
1830. Millard Fillmore, Edmund Hull.
1831. Millard Fillmore, Nathaniel Knight.

So far as the Assembly journals for 1829 record, Mr. Fillmore did little speaking in the House. January 9th, he was made a member of the committee on bills; and on February 9th, as chairman of a select committee, to which was referred a "petition of sundry inhabitants of the town of Aurora in the county of Erie, praying for the passage of a law to authorize them to apply a part of their poor funds to the improvement of roads and bridges in said town," he

1. In the legislative manuals published during Mr. Fillmore's terms of service, his name is spelled "Millerd." It is usually so spelled in the printed journals of the Assembly. The same spelling was used in the early advertisements of his law business in Buffalo. The editor has not found any autograph of Mr. Fillmore giving that spelling of his first name, though apparently he sanctioned it for some years, while usually signing himself "M. Fillmore."

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made the following report, which is the first document known to have been written by him in his public service:

MR. FILLMORE'S FIRST LEGISLATIVE MEASURE—TO REPAIR AURORA BRIDGES.

"Mr. Fillmore, from the select committee to which was referred the petition of sundry inhabitants of the town of Aurora in the county of Erie, reported:

"That the following facts appear by said petition (the truth of which the committee have no reason to doubt), to wit: That there are in said town of Aurora several large and expensive bridges, situated on important roads leading across the western and middle branches of the Buffalo creek: That the said town has for some years past, raised by tax as large a sum as the present law will permit them to raise, and found the same insufficient to defray the expenses of building said bridges, and keeping them in repair: That there is now in the hands of the overseers of the poor of said town, the sum of about three hundred and fifty dollars, belonging to the poor funds of said town; and that there is not now, nor has there been for some time past, any paupers chargeable to, or supported by said town. The petitioners therefore pray that a law may be passed, authorising and requiring the overseers of the poor of said town, to pay over so much of said money now remaining in their hands, to the commissioners of highways of said town, as the inhabitants thereof, at their town meeting, shall by vote direct, to be by said commissioners expended in like manner as other moneys coming into their hands are by law to be expended.

"However sacred this fund should in general be held, yet under the circumstances of this case, where there appears to be no special object in want of this charitable fund, or likely to require it, as it is a notorious fact that the said county has lately erected a poor-house; and where the conveniences of the town and public at large will be greatly promoted by applying a part of it to the repairs of the bridges in said town, which without it will soon be impassable; the committee are of opinion that the prayer of the petitioners ought

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to be granted, and have directed their chairman to ask leave to introduce a bill accordingly.

"*Ordered*, That leave be given to bring in such a bill." [1]

Not long before this, it will be remembered, Mr. Fillmore had been the village school-teacher at Aurora—now East Aurora. To a select committee of which he was chairman, the Assembly, February 9th, referred a petition of Joseph Howard, Jr., and other inhabitants of Aurora, on which Mr. Fillmore made the following report for his committee:

TO SELL THE OLD AURORA SCHOOLHOUSE.

"That it appears from said petition, the truth of which is verified by the certificate of the trustees of school district number one in the town of Aurora and county of Erie, that said district were the owners of a certain piece of land, which had been conveyed to their predecessors in office, for a lot on which to erect a school-house in said district: That a school-house had been built thereon, and occupied by said district, until a little more than a year since, when the house had become so dilapidated that it was found necessary to erect a new one: That the inhabitants of said district were of opinion that a better site for a school-house could be procured than this, as it was situated so near the centre of business in the village, that the school was frequently interrupted by noise; and they accordingly got the consent of the school commissioners to remove the site, and voted to remove the same: That they there voted that the old lot should be sold to the one who would give the most for it; and it was accordingly sold to the said Joseph Howard junior, for the sum of 34 dollars, and conveyed to him by a quit claim deed from the trustees of said district; and that the consideration money therefor has been duly paid by him to the trustees of said district, and by them duly applied towards the building of the new school-house: But on investigation, it was found that the said district could not convey

1. Assembly Journal, 1829, p. 403-4.

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their real estate, without being specially authorised by an act of the Legislature; and therefore, as well the trustees as the inhabitants of said district, have united with the said Joseph Howard junior, in his petition, praying that said conveyance may be confirmed and rendered valid by an act of the Legislature: And the committee are of opinion that justice and equity require that the prayer of the petitioners should be granted, and have directed their chairman to ask leave to introduce a bill accordingly.

"*Ordered,* That leave be given to bring in such a bill." [1]

There is also record that on February 10th, on motion of Mr. Fillmore,

Ordered, That the report of the comptroller on the petition of William Williams, receiver of the Bank of Niagara, together with the documents accompanying the same, be referred to the committee on the incorporation and alteration of the charters of banking and insurance companies.

The foregoing indicate the character of matters which engaged his attention at the outset of his public career.

In the session of 1830, he came, naturally, into more prominence. The following memoranda are from the Assembly journal of 1830:

On motion of Mr. Fillmore,

Resolved, That the committee on the judiciary be instructed to inquire into the constitutionality of the law passed at the last session of the Legislature, relative to the election of justices of the peace, and report their opinion thereon to this house.

On motion of Mr. Fillmore,

Resolved, That the memorial of Christopher P. Bellinger and others, praying an investigation into the conduct of the Grand Chapter of Freemasons of the State of New-York, be referred to a select committee, and that such committee have

1. Assembly Journal, 1829, p. 409-10.

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power to send for persons and papers, and be required to report to this House by bill or otherwise.

On motion of Mr. Fillmore,

Resolved, That this House will, after this day, hold an afternoon session to commence at four o'clock, at which all petitions shall be presented and all reports from standing and select committees shall be received.[1]

One other subject that received Mr. Fillmore's special attention, in the session of 1830, was a petition of John I. Van der Kemp, general agent of the Holland Land Company, praying for the passage of an act to enable Wilhem Willink and others "to purchase, take and hold certain real estate," etc. Another issue was a memorial praying for an investigation into the conduct of the Grand Chapter of Freemasons in the State of New York. Mr. Fillmore (an Anti-Mason) sought to have it referred to a select committee of the House, but the charges were finally placed in the hands of the attorney general.

In the Legislature of 1830, Mr. Fillmore was a member, but not chairman, of the committee on subjects relating to the public defense.

January 22d, he voted for the bill to incorporate the Buffalo and Hamburgh Turnpike Company; January 23d, he gave notice that he would ask leave to introduce a bill to change the name of "The Buffalo High School Association" to that of "The Buffalo Literary and Scientific Academy." Granted January 26th, and referred to the committee of the whole; February 17th, he introduced a bill "to authorize the supervisors of the town of Holland in the County of Erie, to collect certain moneys from his predecessor in office, and pay the same over to the commissioners of common schools of said town"—referred to a select committee of

1. Assembly Journal, 1830, pp. 83, 344, 486.

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which Mr. Fillmore was chairman; March 3d, "An act relative to the Court of General Sessions of the County of Erie," was referred to a select committee consisting of Mr. Fillmore, Mr. Edmund Hull and Mr. Samuel DeVeaux; March 19th, as chairman of a select committee, Mr. Fillmore reported "An act concerning the State Road from Fredonia in the County of Chatauque, to the village of Perry in the County of Genesee." April 3d, "An act relative to the Court of General Sessions of the County of Erie," was referred to a select committee of which Mr. Fillmore was chairman. April 6th, "An act to authorize Clark Hilton to erect a dam and lock upon Tonawanda Creek," was referred to a select committee of which Mr. Fillmore was chairman.

In the session of 1831, Mr. Fillmore was chairman of the committee on two-thirds bills. Matters referred to him in this capacity, or as chairman of special committees, included a petition of Erie County supervisors for permission to sell the jail lot and erect a new jail; a petition of inhabitants of the town of Clarence and Amherst in Erie County relative to burying-grounds, which led Mr. Fillmore to prepare a bill applicable to the county at large; a petition for the incorporation of the Buffalo Female Seminary; a bill relating to the support of common schools in the city of New York; etc., etc. The following reports are signed by Mr. Fillmore as chairman, and probably were written by him:

In Assembly, January 18, 1831, Mr. Fillmore, from the select committee to whom was referred the petition of the supervisors of the County of Erie, reported:

THE OLD ERIE COUNTY JAIL.

"That they have had said petition under consideration; and it appears from the facts stated in said petition, the truth of which the committee have no reason to doubt, that

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the jail in said county was erected at an early period, and is now much too small to answer the purposes for which it was erected. That its internal arrangements are bad, and cannot be remedied without entirely rebuilding it; and that its location is not convenient. They therefore pray for the passage of a law authorizing them to sell and convey the same, together with the lot on which said jail is situated, and apply the proceeds towards the erection of a new jail, to be erected on the lot upon which the court house stands in said county, in rear of the same, and also for authority to raise by tax such further sum as may be necessary, not exceeding three thousand dollars, to build and complete such jail.

"Believing that it would be for the interest of said county to build such new jail, instead of attempting to repair the old one, and that a new jail is necessary, the committee have come to the unanimous conclusion that the prayer of said petitioners is reasonable, and ought to be granted, and have directed their chairman to report a bill accordingly, and ask leave to introduce the same."

February 10th, Mr. Fillmore, from the committee on two-thirds bills, reported at length on "An act amendatory of the 'Act for the relief of the heirs of Christian Guthrie'," a soldier of the New York line in the War of the Revolution, who was killed in battle, July, 1778. He was returned as a dead soldier by the name of Christian Gutrick; and a patent was issued to him by the name of Gutrick, for lot No. 90 in the town of Milton; in 1820 this lot escheated to the State. Mr. Fillmore, for his committee, made a long report on the case, holding that the State had not discharged its obligation to Guthrie, by conveying land to "Gutrick." The case has no general interest; but the length and logic of the report illustrate Mr. Fillmore's conscientious thoroughness, and judicial attitude of mind.[1]

1. Assembly Docs., 1831, Nos. 144, 146.

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In Assembly, February 14, 1831, Mr. Fillmore, from the select committee to which was referred the petition of Henry F. Penfield, reported:

AN OLD HORSE-BOAT FERRY ON THE NIAGARA.[1]

"That they have had said petition under consideration; and it appears from the petition that an act was passed in 1826 by which the said petitioner and Ogden Edwards, the proprietor of Squaw Island, in Niagara river, were authorized to establish a ferry from said island to the Canada shore; the duration of which act was limited to the term of five years from the first day of May, 1826.

"The said petition also states that the petitioner and his associate have complied with the provisions of the act of 1826, establishing said ferry, and have a good horse-boat in operation at said ferry; and for reasons which are stated in the petition, said ferry has hitherto afforded very little income; they therefore pray that the provisions of said act may be extended for the term of ten years beyond its present limitation.

"It appears from the papers before your committee, that notice of this application has been published in the State paper and in a paper printed in the county where said ferry is established, for six weeks; and although your committee are of opinion that this notice is unnecessary, yet as no remonstrance has been sent in to oppose the application, it is very strong evidence that there is no opposition to the prayer of the petitioner.

"Your committee have therefore come to the conclusion that the prayer of the petitioner is reasonable, and ought to be granted, and have directed their chairman to ask leave to introduce a bill accordingly."

In Assembly, March 12, 1831, Mr. Fillmore, from the select committee to whom was referred the petition of the

1. This should not be mistaken for the old Black Rock ferry further up the river. For a history of that, the most important ferry on the Niagara, *see* Buffalo Historical Society Publications, Vol. I, pp. 91-109.

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inhabitants of the town of Erie, in the County of Erie, reported:

"That they have had said petition under consideration, and the petitioners allege, that they suffer great inconvenience in the transaction of business through the postoffice, inasmuch as there is a town and county of the same name, in the State of Pennsylvania, to which letters intended for persons residing in that town in this State, are frequently sent, to the great injury and detriment of the persons for whom they were intended. These mistakes, it seems, sometimes occur through the ignorance of the postmasters, and sometimes through the neglect of persons directing their letters, in omitting to mention the name of the State. The mistakes, however, are so frequent, and the remedy so easy, that your committee have come to the conclusion, that the prayer of the petitioners to change the name of said town, is reasonable and ought to be granted; and they have therefore directed their chairman to ask leave to introduce a bill accordingly.[1]

BUFFALO VILLAGE FIRE PROTECTION.

In Assembly, March 15, 1831, Mr. Fillmore, from the select committee to whom was referred the petition of the inhabitants of the village of Buffalo, reported:

"That they have had said petition under consideration, and the petitioners allege that the village of Buffalo is very much exposed to fire, and the provisions to guard against it

1. There have been two towns of Erie in Western New York, but they were six miles apart at the nearest point. The old town of Erie was one of the original towns of Genesee County (then embracing present Erie County), established by the Holland Land Company in 1804. It comprised the seventh, eighth, ninth and tenth ranges, and stretched the whole width of the State, from the Pennsylvania line, where it was twenty-four miles wide, to Lake Ontario, its northern half being from eight to twenty miles. The Buffalo Historical Society owns the original "Town Book of the Town of Erie, 1805 and 1806," but the few entries refer only to license fees and money for the poor. This town of Erie was obliterated from the list of political organizations in 1808. The Legislature in 1823 erected a new town of Erie, from a part of Clarence, which is the one referred to by Mr. Fillmore. The petition was granted, and the town of Erie became Newstead, which name it still bears.

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are totally inadequate to effect that object; and that by the present law they can only raise the sum of $2,000 annually, for all the expenses of said village. They therefore pray for the passage of a law authorizing them to raise the further sum of $3,000 for the construction of wells and reservoirs for water, and the purchase of fire engines and other apparatus for the extinguishing of fires in said village. The petition is signed by the principal inhabitants of said village, and your committee are of opinion that the prayer of the petitioners is reasonable and ought to be granted, and they have therefore ordered their chairman to ask leave to introduce a bill accordingly."[1]

AN EDUCATIONAL PROJECT.

In Assembly, March 28, 1831, Mr. Fillmore, from the select committee to whom was referred the petition of the citizens of Buffalo, for the incorporation of a literary society for the education of females, reported:

"That they have had the same under consideration; and the petitioners allege, what is known to a part of your committee to be true, that Buffalo is a point that presents many and peculiar advantages for the location of a seminary for the education of females; its climate is salubrious and healthy; its position is central and pleasant; and the canal on the one hand, and the lake on the other, open communications that render it of easy access to a vast extent of country. The petitioners also allege that there is no institution of the kind within one hundred miles of that place; that the academical institutions in the western part of this

1 Under the law the enactment of which followed this report, there were constructed in Buffalo, in the fall of 1831, four reservoirs, or cisterns, at the intersections of Main with Seneca, Swan, Eagle and Court streets. These reservoirs held some 10,000 gallons each, and for many years served their purpose well. Others were constructed later. In 1831 also two fire engines and necessary hose were purchased. The first regular fire company in Buffalo was organized Dec. 16, 1824. Mr. Fillmore does not appear to have been active as a volunteer fireman, but in 1832 the Fillmore (also called Fulton) Engine Company No. 3 was given his name, presumably in recognition of his legislative service.

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State are principally attended by males, and particularly the one in Buffalo is attended by young gentlemen exclusively.

"Your committee deem it unnecessary to enter into any arguments, to show the duty of the Legislature to encourage, by all means in their power, so laudable an object as the education of females in the higher departments of literature. This question has long since been settled by public opinion.

"The petitioners pray for an act of incorporation, to aid them in this praiseworthy undertaking; and your committee are of opinion that their prayer should be granted and have directed their chairman to ask leave to introduce a bill accordingly."[1]

The foregoing show how Mr. Fillmore at this period sought to serve his home community. But the chief service to the State during his legislative career at Albany was as champion of the movement to abolish imprisonment for debt. The history of that movement, or rather of the evolution of public sentiment in the matter, is perhaps a theme which may some time receive the attention of Mr. Fillmore's biographer. For the present purpose it must suffice to record that Mr. Fillmore was the principal author of an act which passed the Assembly April 2, 1831, was amended and finally signed by the Governor on April 26th, and which appeared on the statute-books of the State entitled: "An Act to abolish imprisonment for debt, and to punish fraudulent

1. No immediate result is known to have come from this effort. The Buffalo Female Academy was not incorporated until 1851. An early educational movement with which Mr. Fillmore was connected was the formation, in 1827, of the Buffalo High School Association. A meeting was held at the Eagle Tavern, on November 22d of that year, at which an act of incorporation was drawn up, and a board of trustees were authorized to procure subscriptions to an amount not less than $10,000. Their efforts met fair success. On Jan. 8, 1828, a prospectus of Buffalo's first high school was issued. The first Buffalo Directory, issued in 1828, said: "The Buffalo High School, incorporated in 1827, capital not to exceed $25,000, $10,000 of which is already subscribed and the school commenced, in rooms temporarily fitted for the purpose, in January last. The buildings of this institution are to be erected the coming season." The school was successful for some years.

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debtors." The bill as passed was written by Mr. Fillmore, except the portions relative to proceedings in courts of record, which were drawn by John C. Spencer.

AN ACT RELATIVE TO IMPRISONMENT FOR DEBT.

An Act to abolish imprisonment for debt, and to punish fraudulent debtors. Passed April 26, 1831.[1]

SECTION 1. No person shall be arrested or imprisoned on any civil process issuing out of any court of law, or on any execution issuing out of any court of equity, in any suit or proceeding instituted for the recovery of any money due upon any judgment or decree, founded upon contract or due upon any contract express or implied, or for the recovery of any damages for the non-performance of any contract.

SEC. 2. The preceding section shall not extend to any person who shall not have been a resident of this State, for at least one month previous to the commencement of a suit against him; nor to proceedings as for contempts to enforce civil remedies; nor to actions for fines or penalties, or on promises to marry, or for moneys collected by any public officer, or for any misconduct or neglect in office, or in any professional employment.

SEC. 3. In all cases where, by the preceding provisions of this act, a defendant cannot be arrested and imprisoned, it shall be lawful for the plaintiff who shall have commenced a suit against such defendant, or shall have obtained a judgment or decree against him, in any court of record, to apply to any judge of the court in which such suit is brought, or to any officer authorized to perform the duties of such judge, for a warrant to arrest the defendant in such suit.

SEC. 4. No such warrant shall issue, unless satisfactory evidence be adduced to such officer, by the affidavit of the plaintiff, or of some other person or persons, that there is a debt or demand due to the plaintiff, from the defendant, amounting to more than fifty dollars, and specifying the nature and amount thereof, as near as may be, for which the defendant, according to the provisions of this act, cannot be arrested or imprisoned; and establishing one or more of the following particulars:

1. This Act, "chapter 300, Laws of 1831," was repealed by Law of 1880, chapter 245, sec. 1, paragraph 9.

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1. That the defendant is about to remove any of his property out of the jurisdiction of the court in which such suit is brought, with intent to defraud his creditors; or

2. That the defendant has property or rights in action, which he fraudulently conceals, or that he has rights in action, or some interest in any public or corporate stock, money or evidences of debt, which he unjustly refuses to apply to the payment of any judgment or decree which shall have been rendered against him, belonging to the complainant; or

3. That he has assigned, removed or disposed of, or is about to dispose of, any of his property, with the intent to defraud his creditors; or

4. That the defendant fraudulently contracted the debt or incurred the obligation, respecting which such suit is brought.

SEC. 5. Upon such proof being made to the satisfaction of the officer to whom the application shall be addressed, he shall issue a warrant, in behalf of the people of this State, either with or without seal, directed to any sheriff, constable, or marshal, within the county where such officer shall reside, therein briefly setting forth the complaint, and commanding the officer to whom the same shall be directed, to arrest the person named in such warrant, and bring him before such officer without delay; which warrant shall be accompanied by a copy of all affidavits presented to such officer, upon which the warrant issued; which shall be certified by such officer, and shall be delivered to the defendant, at the time of serving the warrant, by the officer serving the same.

SEC. 6. The officer to whom such warrant shall be delivered, shall execute the same, by arresting the person named therein, and bringing him before the officer issuing such warrant; and shall keep him in custody until he shall be duly discharged, or committed as hereinafter provided.

SEC. 7. On the appearance of the person so arrested, before the officer issuing such warrant, he may controvert any of the facts and circumstances on which such warrant issued, and may, at his option, verify his allegations by his own affidavit; and in case of his so verifying the same, the complainant may examine such defendant on oath, touching any fact or circumstance material to the inquiry, and the answers of the defendant on such examination, shall be reduced to writing and subscribed by him; and the officer conducting such inquiry, shall also receive such other proof as the parties may offer, either at the time of such first appearance, or at such

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other time as such hearing shall be adjourned to; and in case of an adjournment, such officer may take a recognizance, with or without surety, at his discretion, from the defendant, for his appearance at the adjourned hearing.

SEC. 8. The officer conducting such inquiry, shall have the same authority to issue subpœnas for witnesses, which is now conferred by law on any officer empowered to hear applications of insolvents, for the purpose of exonerating their persons from imprisonment, and shall have the same power to enforce obedience to such subpœnas, and to punish witnesses refusing to testify; and witnesses wilfully disobeying any such subpœnas shall be liable to the penalties prescribed in the seventh article of title first and chapter fifth of the second part of the Revised Statutes.

SEC. 9. If such officer is satisfied that the allegations of the complainant are substantiated, and that the defendant has done, or is about to do, any one of the acts specified in the fourth section of this act, he shall by a commitment under his hand, direct that such defendant be committed to the jail of the county in which such hearing shall be had, to be there detained until he shall be discharged according to law; and such defendant shall be committed and detained accordingly.

SEC. 10. Such commitment shall not be granted, if the defendant shall either,

1. Pay the debt or demand claimed, with the costs of the suit and of the proceedings against him; or

2. Give security to the satisfaction of the officer before whom the hearing shall be had, that the debt or demand of the plaintiff, with the costs of the suit and proceedings aforesaid, shall be paid within sixty days, with interest; or

3. Make and deliver to such officer an inventory of his estate and an account of his creditors, and execute an assignment of his property as hereinafter provided, on which the same proceedings shall be had as upon a petition of such defendant in the manner hereinafter directed, except that no notice to the plaintiff shall be requisite; and no adjournment shall be granted for more than three days, except at the instance of the defendant; and a discharge shall be granted in the like case, and with the same effect; or

4. Enter into a bond to the complainant, in a penalty not less than twice the amount of the debt or demand claimed, with such sureties as shall be approved by such officer, conditioned that such defendant will, within thirty days, apply for an assignment of all

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his property, and for a discharge, as provided in the subsequent sections of this act, and diligently prosecute the same until he obtains such discharge; or,

5. If such defendant shall give a bond to such plaintiff, in the penalty and with the sureties above prescribed, conditioned that he will not remove any property which he then has, out of the jurisdiction of the court in which such suit is brought, with the intent to defraud any of his creditors; and that he will not assign or dispose of any such property, with such intent, or with a view to give a preference to any creditor for any debt, antecedent to such assignment or disposition, until the demand of the plaintiff, with the costs, shall be satisfied, or until the expiration of three months after a final judgment shall be rendered in the suit brought for the recovery of such demand.

SEC. 11. Any defendant committed as above provided, shall remain in custody in the same manner as other prisoners on criminal process, until a final judgment shall have been rendered in his favor, in the suit prosecuted by the creditor at whose instance such defendant shall have been committed, or until he shall have assigned his property and obtained his discharge, as provided in the subsequent sections of this act; but such defendant may be discharged by the officer committing him, or any other person authorized to discharge the duties of such officer, on such defendant paying the debt or demand claimed, or giving security for the payment thereof, as provided in the tenth section of this act, or on his executing either of the bonds mentioned in said section.

SEC. 12. Any person committed as above provided, or who shall have given the bond specified in the fourth subdivision of the tenth section of this act, or against whom any suit shall have been commenced in a court of record, in which such person, by the provisions of this act, cannot be arrested or imprisoned, may present a petition to a justice of the supreme court, a circuit judge, any judge of a county court, or any supreme court commissioner in the county in which such defendant resides or is imprisoned, praying that his property may be assigned, and that he may have the benefit of the provisions of this act.

SEC. 13. On presenting such petition, such defendant shall deliver an account of his creditors, and an inventory of his estate, similar in all respects to the account and inventory required of a debtor, by the sixth article of title first and chapter five of the second part of the Revised Statutes; and shall annex to the said

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petition, account and inventory, an affidavit, which shall be taken and subscribed by him, before the officer to whom such petition is presented, similar in all respects to the oath required by the fifth section of the sixth article of the aforesaid title and chapter.

SEC. 14. Fourteen days' previous notice of the time and place at which, and of the officer to whom such petition will be presented, together with a copy of such petition, and the account of the inventory thereto annexed, shall be served personally on the plaintiffs by whom such defendant shall be prosecuted, their personal representatives or their attorney; and proof of such service shall be made at the time of presenting such petition.

SEC. 15. Any creditor of such petitioner may oppose such application, and may examine the petitioner, his wife or any other witness, in the manner prescribed in the third article of the aforesaid first title and fifth chapter, and shall be entitled to the like process to compel their attendance and testimony; and such witnesses shall, in all respects, be subject to the provisions of the seventh article of the said title, for their neglect to obey subpœnas, or to testify.

SEC. 16. Upon sufficient cause shown by the petitioner, or by any creditor, the officer to whom such petition is addressed, may adjourn the hearing thereof, not exceeding thirty days; and if, at any hearing of such petition, the opposing creditor shall fail to satisfy such officer that the proceedings on the part of the petitioner are not just and fair, or that he has concealed, removed or disposed of, any of his property, with intent to defraud his creditors; such officer shall order an assignment of all the property of such petitioner, in the same manner as provided in the fifth article of the first title of the fifth chapter of the second part of the Revised Statutes, except such as is therein exempt; which assignment shall be executed with the like effect as declared in the said article, and shall be recorded in the same manner.

SEC. 17. Such officer shall appoint one or more assignees, to whom such petitioner shall assign all his estate; and upon producing to such officer, evidence that such assignment has been recorded, and a certificate of the assignees, that all the property of such petitioner, specified in his inventory, has been delivered to them, or that he has given satisfactory security for the future delivery of the same, such officer shall grant to the petitioner a discharge, which shall exonerate him from being proceeded against by any creditor entitled to a dividend of the estate of such petitioner, as hereinafter provided, under the third, fourth, fifth, sixth, seventh, eighth and

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ninth sections of this act, for any fraud committed or intended before such discharge.

SEC. 18. The assignees to whom such assignment shall be made, shall be vested with all the rights and powers over the property so assigned, which are specified in the eighth article of the first title of chapter five of the second part of the Revised Statutes, and shall be subject to the same duties, obligations, and control, in all respects, and shall make dividends; and vacancies in their number, shall be supplied as therein directed.

SEC. 19. The general provisions applicable to proceedings under the several articles of the said first title, and which are contained in the seventh article of the said title, shall be deemed to apply to the proceedings herein directed, so far as the same are not inconsistent with the provisions of this act; and the officers and assignees performing any duties under this act, shall be entitled for their services, to the same fees and compensation as are provided by law, for similar services under the fifth article of the aforesaid title of chapter five, and as are provided by law for services in criminal cases.

SEC. 20. Every person imprisoned on civil process, at the time of this act taking effect as a law, in any case where, by the preceding provisions of this act, such person could not be arrested, or imprisoned, shall be entitled to be discharged at the expiration of three months after this act shall take effect as a law, unless the creditor of whose suit such person shall be imprisoned, shall, within the time aforesaid, make application and complaint to some judge of the court in which such suit was brought, or to some officer authorized to perform the duties of such judge, as specified in the third and fourth sections of this act; and upon such application being made, if a warrant is not issued as herein provided, such imprisoned person shall be entitled to be discharged from imprisonment; and if such warrant be granted, the same proceeding shall be had thereon, as herein before provided; and the removal of the defendant from any jail in which he may be imprisoned by any warrant in such proceedings, shall not be deemed an escape.

SEC. 21. Every person imprisoned, as in the last preceding section specified, may give a notice to the creditors at whose suit he is imprisoned, and present a petition and inventory, as specified in the twelfth and thirteenth sections of this act; and the same proceedings shall be thereon as herein before provided, and a discharge granted on such petition as therein directed, shall entitle such petitioner to be discharged from his imprisonment.

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SEC. 22. Whenever any complaint shall be made under the third, fourth and fifth sections of this act, and the same shall be dismissed, the party making the same shall be liable for all fees to officers, and for all costs and expenses which the defendant shall have incurred.

SEC. 23. Whenever in this act, the removal, concealment or disposal of any property is declared to be the ground of any complaint or proceeding, and where any bond is required in reference to such concealment, removal or disposal, the same shall not be deemed to apply to any property which shall be expressly exempted by statute from levy and sale under execution.

SEC. 24. Whenever a bond, given under the tenth section of this act, shall become forfeited by the non-performance of the condition thereof, the plaintiff shall be entitled to recover thereon the amount due to him, on the judgment obtained in the original suit instituted against the defendant giving such a bond.

SEC. 25. The foregoing provisions of this act shall not extend to suits or proceedings before justices' or other courts, for the recovery of any debt or demand of fifty dollars or less.

SEC. 26. Any person who shall remove any of his property out of any county, with intent to prevent the same from being levied upon by any execution, or who shall secrete, assign, convey, or otherwise dispose of any of his property, with intent to defraud any creditor, or to prevent such property being made liable for the payment of his debts, and any person who shall receive such property with such intent, shall, on conviction, be deemed guilty of a misdemeanor; and where the property so removed, secreted, concealed, assigned, conveyed, received or otherwise disposed of, shall be worth fifty dollars or less, such offence may be tried by a court of special sessions of the peace in the manner directed in the third title of chapter second of the fourth part of the Revised Statutes, and in such case, the punishment for such offence shall be limited as prescribed in the said title.

SEC. 27. Whenever any person shall have been convicted of a misdemeanor under the last preceding section of this act, the same proceedings may be had for the appointment of trustees to take charge of the estate of such person as are authorized by the second article of the first title of chapter five of the second part of the Revised Statutes; and the trustees so appointed shall possess all the powers, rights, and authority, be entitled to the same compensation and be subject to the same duties, obligations and control, in all respects, as trustees appointed under the said second article; and

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in addition thereto, if such trustees suspect that the person so convicted has concealed about his person or otherwise, money or evidences of debt, upon making oath of the same before any judge of a county court, and on such judge being satisfied that such suspicions are well founded, he may issue a warrant authorizing and commanding any sheriff or constable to search the person of such defendant, and any place occupied by him, or any trunk or other article owned or possessed by him, for such money or evidences, and to deliver what shall be so discovered to such trustees.

SEC. 28. When it shall appear to any officer authorized to entertain any proceedings under this act, that any misdemeanor or perjury has been committed by any party or witness, it shall be his duty to take the measures prescribed by law to cause the offender to appear at the proper court having jurisdiction of the offence, to answer for the same.

SEC. 29. No person shall be excused from answering any bill in equity, seeking a discovery in relation to any fraud prohibited by this act, or from answering as a witness in relation to any such fraud; but no such answer shall be used in evidence in any other suit or prosecution.

SEC. 30. No execution issued on any judgment rendered by any justice of the peace upon any demand arising upon contract, express or implied, or upon any other judgment founded upon contract, whether issued by such justice or by the clerk of the county, shall contain a clause authorizing an arrest or imprisonment of the person against whom the same shall issue, unless it shall be proved, by the affidavit of the person in whose favor such execution shall issue, or that of some other person, to the satisfaction of such clerk or justice, either,

1. That the person against whom the same shall issue, had not resided in this State for the space of thirty days immediately preceding the commencement of the suit upon which such judgment was rendered, or immediately preceding the rendition of such judgment, if the same was rendered upon confession without process; or,

2. That such judgment was for the recovery of money collected by any public officer; or,

3. For official misconduct or neglect of duty; or,

4. For damages for misconduct or neglect in any professional employment.

SEC. 31. No warrant shall issue against a defendant in any case in which, by the provisions of the last preceding section, an execu-

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tion on the judgment recovered, could not be issued against his body, and whenever a warrant in such case shall issue, the like affidavit shall be required as for the issuing of an execution by the provisions of said section.

SEC. 32. Whenever by the provisions of the last preceding section no warrant can issue, and the plaintiff shall be a non-resident of the county, and shall give the like proof of the fact, and tender to the justice the security now required by law to entitle him to a warrant, the justice shall issue a summons, which may be made returnable not less than two nor more than four days from the date thereof, and shall be served at least two days before the time of appearance mentioned therein; and if the same shall be returned personally served, the same proceedings shall be had, and no longer adjournment granted, than in case of a warrant at the instance of a non-resident plaintiff.

SEC. 33. Whenever by the provisions of the thirtieth section of this act, no warrant can issue, and the defendants shall reside out of the county, he shall be proceeded against by summons or attachment, returnable not less than two, nor more than four days from the date thereof, which shall be served at least two days from the date thereof, which shall be served at least two days before the time of appearance mentioned therein; and if such defendant be proceeded against otherwise, the justice shall have no jurisdiction of the cause.

SEC. 34. In addition to the cases in which suits may now be commenced before justices of the peace by attachment, any suit for the recovery of any debt or damages arising upon any contract, express or implied, or upon any judgment, for fifty dollars or less, may be so commenced, whenever it shall satisfactorily appear to such justice that the defendant is about to remove from the county any of his property, with intent to defraud his creditors, or has assigned, disposed of or secreted, or is about to assign, dispose of or secrete any of his property, with the like intent, whether such defendant be a resident of this state or not.

SEC. 35. Before any attachment shall issue in such case, or in the cases provided for in article second, title fourth, chapter second, part third of the Revised Statutes, the plaintiff shall by his own affidavit, or that of some other person or persons, prove to the satisfaction of the justice, the facts and circumstances to entitle him to the same, and that he has such a claim as is specified in the last preceding section against the defendant, over and above all discounts which the defendant may have against him, specifying, as

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near as may be, the amount of such claim or the balance thereof; and such plaintiff, or some one in his behalf, shall also execute in the cases provided for by this act, a bond in the penalty of at least one hundred dollars, with such sureties, and upon such condition as is required in section twenty-ninth of said article; and so much of said article as requires any other or different proof for the issuing of an attachment, than that required by this section, is hereby repealed.

SEC. 36. Every attachment issued by virtue of this act, or of the provisions contained in the said second article, shall be served in the manner now provided in said article, except that if the defendant can be found in the county, the copy of such attachment and inventory, shall be served upon him personally instead of leaving the same at the place now prescribed in said article: and the return of said officer, in addition to what is now required, shall state specifically whether such copy was or was not personally served upon the defendant.

SEC. 37. If such attachment was issued in one of the cases provided for by this act, and shall be returned personally served upon the defendant, the justice shall, on the return day, proceed to hear and determine the cause in the same manner as upon a summons returned personally served.

SEC. 38. If such attachment was issued in one of the cases provided for by this act, and at the return day it shall appear by the return, that property was attached, and that a copy of such inventory and attachment was not personally served, and the defendant shall not appear, the plaintiff may take out a summons against the defendant; and if such summons shall be returned that the defendant cannot be found after diligent inquiry, or that the same has been personally served upon the defendant, in either case, the justice shall proceed to hear and determine the cause in the same manner as upon a summons returned personally served.

SEC. 39. A judgment obtained before any justice, in any suit commenced by attachment, when the defendant shall not be personally served with the attachment or summons, and shall not appear, shall be only presumptive evidence of indebtedness, in any suit that may be brought thereon, and may be repelled by the defendant; and no execution issued upon such judgment, shall be levied upon any other property than such as was seized under the attachment issued thereon; nor shall any defendant in such case, be barred of any set-off which he may have against the plaintiff.

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SEC. 40. A defendant, against whose body, by the provisions of this act, an execution cannot be issued from a justice's court, shall not be required, in order to obtain an adjournment of a cause, to give a bond with the condition now required by law, but instead thereof, the condition of such bond shall be, that no part of his property liable to be taken on execution shall be removed, secreted, assigned, or in any way disposed of, except the necessary support of himself and family, until the plaintiff's demand shall be satisfied, or until the expiration of ten days after such plaintiff shall be entitled to have an execution issued on the judgment obtained in such cause, if he shall obtain such judgment, and if the condition of such bond be broken, and an execution of such judgment be returned unsatisfied in whole or in part, the plaintiff, in an action on such bond, shall be entitled to recover the amount due on such judgment.

SEC. 41. Sections one hundred and thirty-seven, one hundred and thirty-eight and one hundred and thirty-nine of title fourth, chapter second and part third of the Revised Statutes are hereby repealed.

SEC. 42. When judgment shall be rendered against the defendant, no more than two summonses, and the service of the two summonses, shall be included in the costs of such judgment.

SEC. 43. All the provisions of said title fourth, not hereby expressly repealed, and not consistent with the provisions of this act, are hereby declared to be in full force, and to apply to the provisions of this act, so far as the same relate to proceedings in courts before justices of the peace.

SEC. 44. All persons imprisoned at the time this act shall take effect as a law, by virtue of any execution issued upon a judgment recovered before any justice, upon any contract, express or implied, shall be discharged from such imprisonment, as in the next section provided, unless the plaintiff in such execution shall, on or before that day, file with the jailer an affidavit, stating such facts as would authorize an execution against the body of the defendant, according to the twenty-ninth section of this act.

SEC. 45. To entitle such imprisoned debtor to such discharge, he shall present to the jailer or sheriff in whose custody he shall be, an affidavit setting forth that the execution, by virtue of which he is imprisoned, issued upon a judgment obtained on a contract, express or implied, or obtained on a judgment founded on such contract; and thereupon he shall be discharged, and the sheriff shall not be liable to any action for such discharge.

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SEC. 46. Any person imprisoned on any process issued out of any court, who shall be entitled to be discharged from such imprisonment under the provisions of this act, may bring a writ of habeas corpus or certiorari for that purpose, in the manner provided in the ninth chapter of the third part of the Revised Statutes.

SEC. 47. The provisions of this act, from the twenty-ninth section inclusive, shall apply to executions, warrants and other process issued by the marine court in the city of New York, by the assistant justices for wards in the said city, and by the justices of the justices' courts in the city of Albany and of the city of Hudson, and to all proceedings in the said courts and by the said justices, in the like cases and in the same manner as herein provided in respect to justices of the peace.

SEC. 48. This act shall take effect as a law on the first day of March, one thousand eight hundred and thirty-two; but the secretary of state shall immediately cause a sufficient number of copies of this act to be printed by the state printer, to supply every justice of the peace in the state, and every town clerk and sheriff with a copy, which shall be transmitted by him to the clerks of the different counties, and by them distributed to the officers entitled thereto: the expense of which printing and transmission to the county clerks shall be paid out of the treasury, in the manner provided by law.

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MR. FILLMORE'S PAMPHLET

ON RELIGIOUS TESTS

FOR WITNESSES

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MR. FILLMORE AS PAMPHLETEER

In the autumn of 1832 there appeared in the Buffalo *Patriot* a series of letters, afterwards issued as a sixteen-page pamphlet with the following title-page: "An examination of the question, "Is it right to require any religious test as a qualification to be a witness in a court of justice?' By Juridicus. Buffalo: Printed by Charles Faxon. 1832." Whether the authorship of this pamphlet was generally known at the time, cannot now be stated; but on the title-page of a copy which was for many years in Mr. Fillmore's library, and is now owned by the Buffalo Historical Society, is written, in Mr. Fillmore's well-known hand, "By Millard Fillmore." He was not the man to thus claim a work unless he was its author. Furthermore, the style of composition is such as to remove all doubt from a mind familiar with the characteristics of his writing. Chronologically, it stands between his service in the Assembly of New York State, and the national House of Representatives. The text of the pamphlet, with the title-page in facsimile, follow.

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AN

EXAMINATION

OF THE

QUESTION,

'IS IT RIGHT TO REQUIRE

ANY RELIGIOUS TEST

AS A

QUALIFICATION

TO BE A

WITNESS IN A COURT OF JUSTICE?'

By Millard Fillmore

BY JURIDICUS.

Buffalo:
PRINTED BY CHARLES FAXON.

1832.

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PREFACE

The following numbers appeared in the Buffalo *Patriot* during the winter of 1832, over the signature of JURIDICUS. They treat upon a subject of vital importance to every citizen. Many, whose character and religious faith are a sure guaranty, not only to their *competency* but *credibility* as witnesses, suppose they have no interest in a rule of law that prevents their neighbor from testifying. But in this they are entirely mistaken. It is their *interest* as well as the *civil rights* of their neighbor, that suffer by this unjust rule. They have an interest in their neighbor's testimony,—he may be the only witness by whose evidence a right can be established, or an unjust claim repelled. And if any improper rule of law prevents his testifying, an innocent person may suffer for want of his evidence, and justice be defeated. It may be truly said that in all moral revolutions, public sentiment must precede legislative action. The representative is seldom in advance of his constituents. If you would therefore successfully attack ancient prejudices, or overturn long established errors, enlighten the people, and the work is accomplished. These considerations are thought to be a sufficient apology for re-printing the following numbers, and distributing them to the world in a more extensive and substantial manner than the limited circulation and evanescent nature of a country newspaper would permit. They are *brief*, considering the extent of the subject upon which they treat, yet it is believed they are sufficiently *long* for the man who *thinks*, and more would be thrown away upon the reader who never *thinks*. The absurdities mentioned will suggest more to the reflecting mind, and if many more were added, they would weigh nothing in the mind of that man who never reflects.

It is proper to add in conclusion, that in the winter of 1831, a bill was introduced into the assembly of the State of New York for the purpose of amending the law in this respect, a copy of which is annexed. Its friends had strong hopes of its passage, but the press of other important business which had a preference, prevented any action upon it during that session; and the subject was not *resumed* the ensuing year.

Buffalo, October 5th, 1832.

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IN ASSEMBLY, —— February 1, 1832.

An act relative to the competency of witnesses.

The People of the State of New York, represented in Senate and Assembly do enact as follows:

§ 1. No person shall be deemed incompetent as a witness in any court, matter or proceeding, on account of his or her religious belief, or for the want of any religious belief; nor shall any witness be questioned as to his or her religious belief; nor shall any other testimony be received in relation thereto, either before or after such witness may be sworn.

No. 1.

Mr. Salisbury[1]—I ask the favor of your columns to discuss a question of great importance, to the rights of every citizen. And when I speak of *rights* I mean those legal and admitted rights that the constitution and laws profess to guaranty to every person. The question is this, "Is it right to require any religious test to qualify a person to be a witness in a court of justice?"

It may appear like presumption in any person to assume the negative of this question. He will undoubtedly be told, that the wisdom of ages has sanctioned the doctrine, that if a person be deficient in certain articles of established faith he ought not to be permitted to be sworn in a court of justice; that no testimony ought to be given without the sanction of an oath; that the oath itself in such case would be but a mockery, and therefore, the witness ought not to be heard at all.

All will readily admit that it is of infinite importance to the due administration of justice, that the rule by which testimony is to be admitted or rejected, should be the one best calculated to develop the facts which are necessary to be known, to arrive at a correct decision of the matter in controversy.

1. Hezekiah A. Salisbury, publisher of the Buffalo *Patriot*. He and his brother Smith H. Salisbury were the pioneer printers of Buffalo. In 1832 the *Patriot* was a weekly. January 7, 1834, it was renamed the Buffalo *Patriot and Commercial Advertiser*. The first number of the daily *Commercial Advertiser* was issued Jan. 1, 1835, with H. A. Salisbury as publisher. He died March 14, 1856.

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The best and most perfect laws are but a dead letter, if there be no adequate means provided to obtain a knowledge of the facts upon which they are to operate. How does it benefit me, though the law has declared that the man who takes my horse shall pay me all the damage which I may sustain by such taking, if, at the same time, it has provided no means by which I can satisfy the tribunal appointed to administer justice, that the horse has been taken and I have sustained damage? Injustice must always be done, when for any cause, the true facts can not be brought to light. Evidence is the medium through which justice is always to be administered—and if by adopting an improper rule we exclude from our knowledge a part, or all of the facts, which are necessary to be known to decide correctly, we must in our decision necessarily and unavoidably do injustice.

The rule of exclusion in the dark ages when men were punished for "opinion's sake," was very broad indeed. Gilbert lays it down generally, "That infidels can not be witnesses, because they are under none of the obligations of OUR religion."

In 1744, the Chancellor of England, assisted by the Chief Justice of the King's Bench and Chief Baron of the Common Pleas, decided in a case originating in India that a Gentoo might be sworn according to the forms of his own religion, and was a good witness. This was the first indication of returning sanity in the judicial tribunals of England, and the first step towards the adoption of the true rule for admitting or rejecting witnesses for religious belief. This innovation was strongly opposed; and nothing more appears to have been done by the courts of that country till after our revolution, when by the constitution of this State, we adopted the laws of Great Britain, and took the law on this subject as it then stood.

No reported decision was made in our courts on this subject until 1820, when the question was raised as to a witness who had declared his disbelief in a Deity, and a future state of rewards and punishments. He was declared to be incompetent, and Chief Justice Spencer, who delivered the opinion of the court, said, "By the law of England which has been adopted in this State, it is fully and clearly settled, that infidels who do not believe in a God, or if they do, do not think that he will either reward or punish them in the world to come, can not be witnesses in any case, nor under any circumstances, because an oath cannot possibly be any tie or obligation upon them." —18 Johnson's Rep., 103.

By this decision it would appear, that to render a man a competent witness, it is not only necessary that he should believe in a God, but also in a future state of rewards and punishments. This would exclude most of that class of Christians called Universalists

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from the right to testify. In 1823, this authority was questioned by Mr. Justice Sutherland, in delivering the opinion of the Supreme Court, and he decided the true test to be "whether the witness believes in a God, who will punish him if he swears falsely."—2 Cowen's Rep., 432. Within this rule, that class of Universalists who believe that the Supreme Being will punish them in this world for false swearing would be competent witnesses.

In 1824, the question again arose before the present Chancellor of the State then acting as one of our Circuit Judges, on the trial of a criminal in Otsego county. A witness was objected to on the ground "that he did not believe in any future punishment after this life." The judge decided, that the witness was competent and might be sworn; and that the true test was, that he should believe in a God who would punish him either in this world, or the world to come, if he testified falsely.—2 Cow. Rep., p. 432, note a.

This last rule as laid down by Judge Walworth, was recommended by the Revisers and adopted by the Legislature as a part of the Revised Statutes of this State, in the following words:

"Every person believing in the existence of a Supreme Being who will punish false swearing, shall be admitted to be sworn, if otherwise competent."—2 Revised Statutes, p. 408, § 87.

This is now the existing law on this subject, with a brief history of its mutations from time to time; and it is not a little remarkable that every change has been in favor of admitting persons to testify who were before excluded. The narrow feeling of prejudice and bigotry have gradually given way to more enlightened and liberal views. And since the doctrine has received the assent of all intelligent minds, that men do not deserve to be punished on account of the peculiarity of their religious faith, it is strange that they continue to deprive themselves of the benefit of their neighbor's testimony, merely because his faith in certain unknown things, is a little weaker or stronger than theirs.

In my next number I shall consider the objection, that an infidel ought not to be sworn because there is no tie upon his conscience.

No. 2.

In my last number, I proposed in this "to consider the objection that an infidel ought not to be sworn because there is no tie upon his conscience." Technically speaking, a witness is said to be incompetent, who is not permitted to be sworn or to testify; and to be incredible when, from any cause, his testimony, though received, is not entitled to belief.

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A child too young to understand the nature of an oath, is said to be incompetent. He can not be allowed to testify at all. A man who is a notorious liar, may not be competent—he may be sworn; but nevertheless from his infamy of character, he may not be entitled to belief, and he is, in such case, said to be competent, but not credible.

The question therefore is, "should a witness be deemed incompetent on account of his infidelity?"

I shall not now stop to inquire whether the term infidel includes all who do not possess the true faith or not. My object is not a justification of the belief or want of belief, of infidels in general, or any particular class of them, but to ascertain, if possible, whether their errors of opinion in matters of belief, should disfranchise them from the protection of our laws, and deprive others of the benefit of their testimony.

I shall therefore take the strongest possible case of infidelity, that does or can exist, that of the atheist, and if I am able to prove, that, even in this case, the due and just administration of the laws would be promoted by permitting his erroneous belief to go to his credibility instead of his incompetency, it is presumed that no other shade of infidelity will be deemed sufficient to render a witness incompetent.

But why is the atheist incompetent? Because, say the courts, there is no tie upon his conscience. But this is not true in point of fact: there are many ties, and many inducements, and many motives yet to speak the truth, when under oath, though he may and does lack one which operates upon the person who believes that he will be punished in the world to come for false swearing. The belief or disbelief of the existence of a Supreme Being or of the divinity of our Saviour, proves neither integrity nor the want of it. Men believe in proportion to the evidence which they have, or suppose they have. Their culpability, if any, lies not in the belief or disbelief, of the existence of an over-ruling Providence, but in their neglect to search out such evidences of the fact within their reach, as shall satisfy them of such existence. There can be no other merit or demerit, in believing or disbelieving. If it were in the power of men to believe according to desire, who would indulge for a moment the melancholy reflection, when surrounded by friends, and in the full enjoyment of youth, health and happiness, that soon, very soon, the unsparing scythe of time, would lay these beloved associates, one by one, in the solitary grave; that the buoyancy and delights of youth, must soon be damped and chilled by the autumn and winter of old age, and the tide of health and joy that now pours around the heart, must soon be clogged by disease, and become the stagnant pool, whose exhalations

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produce pain, misery and death? I ask who would believe these things, if belief were a matter of choice? and I answer none. Yet all do believe them. The virtuous and the vicious—the honest and the dishonest; and why do they believe? Not certainly because they are virtuous or vicious, honest or dishonest, but because the evidences that constantly force themselves upon our notice and observation are such, that we can not avoid the conclusion that this must inevitably be the result, and from these evidences, in regard to this matter, our faith and our belief is fixed. So that a man's belief or disbelief of a particular fact, in no wise depends upon his character for moral honesty, or truth, but his character for truth does, in some measure, depend upon his belief or disbelief of the certainty of punishment if he shall tell a falsehood. And this is, in some measure, the view which the courts of modern times have taken of this subject. They have not made the competency or credibility of the witness depend upon the correctness or fallacy of the witness' belief. The pagan who believes that his little wooden god which he carries in his bosom, will punish him in the world to come for false-swearing, is, so far as a matter of faith is concerned, just as good a witness as the most devout Christian. So far as the fear of punishment goes, he is equally restrained from the crime of perjury. And the want of this belief only shows that one inducement out of a great many is wanting to insure virtuous conduct and moral honesty.

Now should the want of this one inducement to speak the truth, render him incompetent as a witness? So far as the fear of punishment to be inflicted by human laws can operate to prevent falsehood, this fear must operate upon him with the same force as upon the most devout believer. The dread of shame and infamy that necessarily attaches to the man who gives false testimony, has the same influence upon the atheist as the believer. The pride of character, the love of justice, that sense of right and wrong that is implanted in every human breast, all operate with the same force upon the atheist as upon any other individual. Truth is much more easily told than falsehood. The relation of truth requires no effort. The invention of a falsehood calculated to gain credit with an intelligent jury, is an undertaking of great labor and hazard. Indolence itself is a barrier against wilful false-swearing; and the very fear of detection whilst on the stand, in the presence of the court and surrounding audience, is a strong preventive of falsehood. All these are so many assurances and so many guaranties for the truth of the testimony of every witness. They operate equally upon the believer and unbeliever, pagan and Christian, Jew and Mahometan.

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Now men in the performance of every voluntary act are governed by some motive. They have in view some advantage, real or imaginary; and whenever the motives to commit perjury in the opinion of the witness outweigh those to speak the truth, he will testify falsely, no matter how strong the motives in favor of truth may be. The preponderance against them in his opinion fixes the result. Therefore all the restraints which can be imposed, are not sufficient in all cases to prevent perjury. Yet, in a great majority of cases, one-half of them would be amply sufficient. The bare absence of a motive to swear falsely would of itself be a sufficient guaranty for truth. The fear of future punishment for false swearing has much less influence on the great majority of people than may be at first imagined. No specific punishment for the breach of an official oath is prescribed by our law. Sheriffs, judges, justices, constables, and other officers, take an oath faithfully to discharge the duties of their respective offices. A violation of this oath is moral perjury. Yet in the great majority of cases, it is no sooner taken than forgotten. It is scarcely thought an obligation. It is taken by the recipient as a mere ceremony, to show that he intends to enter upon the duties of his office. Custom house oaths and test oaths are still stronger instances of the almost perfect indifference with which false swearing is viewed, when there is no other penalty than the punishment to be inflicted by the Supreme Being for false swearing.

When all these instances of moral perjury, with many others that might be enumerated are taken into view, it must be apparent, that the fear of future punishment is in fact of but little use in preventing perjury. The witness who makes up his mind to commit perjury views it as too remote to affect him much. He calculates on repentance and forgiveness before he dies; and it is but a feeble restraint. All must concede, that the fear of future punishment with the great majority of witnesses, is not half as powerful to prevent perjury, as the fear of punishment inflicted by human laws. If so, then why should the witness be competent when the fear of human punishment is removed, and incompetent because the fear of future punishment is removed? A witness is called upon the stand and asked if any other person was present and saw the fact that he is about to testify to. He replies, no. Then of course if the witness should testify falsely, there could be no evidence by which he could be convicted of perjury. He therefore testifies without the fear of human punishment for that offence. This powerful inducement to speak the truth is wanting. Why is he not set aside as incompetent? Why is not the presumption immediately raised in this case, as in the other, that he will

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swear falsely, because there is no fear of human punishment—no tie upon his conscience? Yet this is never done.

But again—we want the testimony of a witness in our courts who lives in India, or Russia. The court send out a commission to take the testimony, without ever inquiring whether that government where the witness resides, has made any provision to punish the witness for perjury, or false swearing in a case depending in our own courts. Why should we not presume the witness will commit perjury on account of this restraint being removed, and therefore declare him incompetent. He knows the laws of Russia where he resides have made no provisions for punishing him for perjury in this case. He therefore, not only believes that he will not be punished by those laws, but he knows to a moral certainty that he cannot be. Yet with all this restraint taken off, he is a competent witness. Then is it not absurd to say what our law now says, that a man can not be a witness unless he believes that the Supreme Being will punish him, either in this world, or the world to come, for false swearing? That unless he swears under this fear, which may be a fear limited to punishment in this life, he will most assuredly commit perjury.

I have devoted more time to this point, than I intended; and in my next, shall endeavor to point out some of the absurdities of this rule of exclusion.

No. 3.

Agreeable to my promise in my last number, I now proceed to point out some of the absurdities and inconsistencies of the rule that renders a witness incompetent on account of his religious belief.

FIRST. This rule of exclusion is inconsistent with the constitution of the State; and is at war with some of the most valued and most sacred principles, embodied in that charter of our liberties and civil rights. The constitution after prescribing the oath or affirmation taken by every officer, and which is merely to support the constitution of the State and of the United States, and faithfully discharge the duties of his office, then declares in the most express and unequivocal language, that "no other oath, declaration, or test, shall be required as a qualification for any office or public trust." From this it is clear that by the constitution, the most stubborn infidel is eligible to the highest office in the State. He may be elected governor or appointed to the office of chancellor, or that of Judge of the Supreme Court, and his infidelity is no disqualification whatever. Then this strange absurdity is presented by the constitution and laws of this State. They permit a man whose oath or affirmation would

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not be received in a Justice's Court to establish an indebtedness of one dollar, in a case where he had no possible motive or interest to testify falsely, to sway the whole executive influence of this great State; to nominate and appoint most of the important officers of the State; and in times of war, when not only the property and happiness of a million and a half of souls may depend upon the integrity and patriotism of that man who has the direction and command of the public force, I say at that perilous crisis, this same man, who would not be permitted to testify in a Justice's Court, is by the constitution, commander in chief of our armies and admiral of our navies. Is not this a gross absurdity? Is it not perfectly ridiculous to say that a man may take an oath or affirmation, and that too when none of the pains and penalties of perjury are inflicted for its violation, that shall insure a faithful performance of all these responsible trusts, and yet the same man shall not be permitted in a court of justice to testify that he saw one of his neighbors lend another one a dollar, for fear he will swear falsely? But again, by the constitution of the State, your Governor may be a professed atheist, whose oath by the laws of the State would not be received to convict a man of an assault and battery, or petit larceny, and yet by the same constitution this same Governor has the power of pardoning the criminal for the highest crimes after conviction. But to place the subject in a still stronger light, let us suppose a case that might occur by the laws and constitution of this State. A. is indicted for murder committed in the village of Buffalo on the 1st day of January, 1832, and he alleges that on that day he was in the city of Albany, transacting business with the Governor of the State; and it so happens that the Governor is an atheist or infidel of that character that he is not allowed to be a witness:—Witnesses are called to testify that they think the man at the bar is the same person whom they saw run out of the house when the murder was committed; and if so, there can be no doubt that he was the one who committed it. The governor is called upon to prove the man's innocence, by showing that he was with him in Albany on the day the murder was committed, and that therefore he must be innocent. He is objected to on account of his infidelity, and declared incompetent; his testimony is not heard, and the man is convicted. Yet this same Governor, who could not, by the laws of the land, testify to the man's innocence, with all the horrors of a State prison before him if he testifies falsely, turns round and makes out a pardon for the convicted murderer, that sets him free whether guilty or innocent. Let every candid person look at this case and see if it does not present a most gross absurdity in the constitution and laws of the State.

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But let us look at this subject in another point of view. By the constitution an infidel or atheist may be elected to the office of justice of the peace and take the office and discharge its duties. If an infidel, he sits and administers an oath to each witness that the law of the land would not permit him to take. But this is not all; as such justice, if he certifies that a judgment has been rendered before him in favor of A. against B. for fifty dollars, that certificate will be conclusive evidence of such fact, and if A. should bring a suit against B. before another justice to recover the same, this certificate would be conclusive evidence in his favor, and at the same time if this justice had produced his docket and offered to swear to it, to establish such judgment, under the pains and penalties of perjury, his oath would not have been received. And the case presents this strange absurdity, that a man's bare certificate may be received in a court of justice to establish a fact, when his testimony under oath would not be received, either to establish it or contradict it. If a justice of the peace happens to be an atheist, or lack the legal faith, his bare certificate will be received to establish a judgment, which is the highest evidence of indebtedness, when his testimony under oath would not be received to show that it had been paid. Look at it. Is it not absurd? But I forbear to pursue the subject farther. Every reflecting man's mind will suggest to him a thousand such absurdities in the application of this rule; and it appears to me that every candid mind must be satisfied that it is entirely inconsistent with the principles of the constitution—opposed to all the free principles of our government—and supremely ridiculous when compared with the official distinction and confidence which the constitution has conferred upon this class of our citizens.

I shall note other inconsistencies and absurdities of this rule in my next.

No. 4.

At the conclusion of my last number I proposed to consider in this, other inconsistencies and absurdities of that rule of law that renders a witness incompetent on account of his religious belief.

Why is the witness declared incompetent? The reason assigned is, that if he should be sworn, he would be more likely to testify falsely than truly, and for that reason his testimony would be more likely to cause injustice than to aid in doing justice. This is the only reason that is, or can now be assigned for rendering a witness incompetent on account of his religious belief.

But how are you to know what a witness' religious opinions are? They are not exposed to the view of mankind. They are not per-

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ceptible to any sense with which the author of our being has endowed us. It is utterly impossible in the very nature of things for one man to know another's religious sentiments. They are comprised in his thoughts, in his opinions—which he may or may not publish to the world, as he pleases. But yet you must have evidence of those thoughts and those opinions before you can exclude him as a witness. Where will you seek for the evidence? You must find it in the declarations of the witness, for it can not be found elsewhere. Then let us look at the process by which this important fact is to be established, and the absurd deductions which are drawn from it.

The witness is called upon the stand, and before any oath is administered to him, he is asked if he believes in the existence of a Supreme Being, who will punish him for false swearing? He answers, No. Now this answer is either true or false. If false, why then he should be admitted as a witness, and would be legally competent by the laws of the land; but if true, then he is to be rejected. This is admirable logic! beautiful consistency! and when placed in due form, reads thus:—A. was introduced as a witness, and it became necessary to prove by him a certain fact, to wit, that he did not believe in a Supreme Being. He stated without being under oath, or feeling any apprehension of having inflicted upon him the pains and penalties of perjury for stating a falsehood, that he did not. The court concluded that he had spoken the truth, and that the fact was established that he did not believe; and he having spoken the truth in this instance with strong temptations to tell a falsehood and no restraints to prevent it, thereupon they arrived at this natural and logical conclusion, that if he should be put under oath, and be thereby subjected to the infamy and punishment inflicted for perjury, that he would most assuredly testify falsely, and therefore, he should not be permitted to testify further. In brief, he has told the truth when not under oath,—and this induces a legal presumption, that he would commit perjury if put under oath, and therefore he shall not be sworn at all.

But look at the absurdity of this process in another point of view. The honest, honorable, upright man, who would not tell an untruth to save his right arm, whether under oath or not; when questioned as to his belief, though it varies from the common standard, freely, candidly and fearlessly confesses it, and is rejected; while the dishonest, lying hypocrite denies what his real sentiments are, tells a falsehood, and is admitted to testify.

But says the objector, we have reconciled these absurdities and obviated these difficulties, by not questioning the witness on the stand as to his religious belief, but by requiring the fact to be proved by

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other witnesses. Let us look at this a moment and see if it be so. What is the fact to be established to exclude the witness? It is, that at the time he is offered as a witness, he does not believe certain things. For it is of no consequence what his belief or disbelief may have been before. If it then comes up to the legal standard, he is to be admitted, if it is then deficient, he is to be rejected. Now the declarations of the witness objected to are to be the evidence of his belief, whether those declarations be made directly to the court, or be made to some other person who states them to the court. They are in either case nothing but his declarations. And their truth is not in the least verified or strengthened by having another witness swear to them. All the witness can say, is, that the man made such declarations as to his religious belief. But whether he spoke the truth or not, it is impossible for him to tell, and the court would never inquire. But in this case they take it for granted he did speak the truth, that the witness who has testified to what he said, has been enabled to recollect distinctly and does now testify truly, and that the proffered witness since that time has not changed his belief. This is making a great many very liberal presumptions to establish the existence of that all important fact, that shall render the witness incompetent. And this is the way, after the court have piled presumption on presumption, they at last arrive at that fancied degree of certainty that they refuse testimony to shew that they can be mistaken. When the fact to be established is that the proffered witness is now an infidel, they receive proof that he said he was six months ago, and would refuse to receive his own oath to shew that he had since changed his mind, and was now an orthodox Christian of the "straightest sect."

If a witness says out of court that he is interested in the event of a certain cause, the court will not take his declaration out of court as proof of the fact. They will require other proof of the fact in court, in order to render the witness incompetent on account of his interest. Why? Because, say the court, he is not under oath and may therefore state that he has an interest, when he has none, merely to avoid testifying against a friend. This is undoubtedly good reasoning and sound law, yet the courts do not appear to have noticed that the cases are precisely parallel. In the one case you wish to establish the fact that the proffered witness is interested, to prevent his being sworn. You offer to prove that he has said he was interested, and the court will tell you that it is not sufficient evidence to establish the fact. In the other case you wish to establish the fact that the witness disbelieves in the existence of a Diety, to render him incompetent. You prove that he has said so, and the court tell you that is

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sufficient to establish the fact. And the mischief to be apprehended in the one case is precisely the same as in the other; and the same policy that should exclude that kind of evidence in the one case, should in the other.

Let us see the frauds that may be practised under this rule of exclusion. Such things are best understood by their practical operation. We will therefore suppose a case. A. is indicted for murder, and B., his relative, or intimate friend, happens to be the only witness by whose testimony the crime can be established. B. does not wish to commit perjury, nor will he, even to save his friend; but by a mutual understanding between them, he will go and tell some third person that he does not believe in a Diety, or a future state of rewards and punishments. This third person will be subpœnæd as a witness, and when B. is called upon the stand, he will be objected to on account of his religious belief, and then the third person will be called upon to swear to what B. told him, and having testified to it, B. is declared incompetent, and A. is acquitted. This is no imaginary case, but one which I am credibly informed, actually occurred in one of the eastern counties of this State. Should not the bare fact that this rule of law opens such temptations and facilities to frauds of this kind, be sufficient to insure its abrogation? Look at it candidly, and dispassionately, and decide for yourself.

JURIDICUS.

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MR. FILLMORE

AS REPRESENTATIVE

IN CONGRESS

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DEBATES AND SPEECHES OF

MR. FILLMORE IN CONGRESS

Mr. Fillmore took his seat in the Twenty-third Congress, as a member of the House of Representatives, December 2, 1833.[1] The first session continued till June 30, 1834. Mr. Fillmore was a member of the standing committee on the District of Columbia. On December 23d he offered his first motion in the House, as follows:

"*Resolved,* That the Committee on Military Affairs be instructed to inquire into the expediency of so modifying the existing law in relation to the militia of the several States, as to permit each State, in time of peace, in the discretion of its Legislature, to require no person to bear arms under 21 or over 40 years of age; and to permit the inspection of arms to be taken by companies, instead of by regiments or battalions; and also into the propriety of providing arms and accoutrements at the public expense for those liable to bear arms; and that they be required to report to this House by bill or otherwise."

Mr. Fillmore subsequently, by unanimous consent, changed the reference of the foregoing resolution to a select

1. In 1832 Erie County was made the Thirty-second Congressional District of New York State, and Mr. Fillmore was the first Representative of the district as so constituted. His predecessor in the Twenty-second Congress, Bates Cook, of Niagara County, represented the Thirtieth District, which then comprised Chautauqua, Erie and Niagara counties. In the Twenty-fourth Congress, March 4, 1835, to March 3, 1837, Erie County was represented by Thomas C. Love. Mr. Fillmore was reëlected to the Twenty-fifth, Twenty-sixth and Twenty-seventh Congresses, serving from March 4, 1837, to March 3, 1843.

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committee, previously appointed on subjects of like character. The construction of a bridge over the Potomac, being under consideration, Mr. Fillmore spoke in favor of referring the subject to the committee on District of Columbia. He shared in discussion on the Army Appropriation bill. He presented, among other memorials, one signed by 700 citizens of Buffalo, "without reference to party, adopted on the 19th of February," in favor of a restoration of the public deposits[1] to the Bank of the United States. His first extended remarks in the House were on a bill for the relief of Abraham Fobes, a veteran of the War of 1812, proposing to give him 640 acres of Government land. Mr. Fillmore sought to have the bill amended so that Fobes could take up the land in quarter sections. This motion being lost, Mr. Fillmore on January 6th said in substance, in further debate:

CASE OF ABRAHAM FOBES, A SPY OF THE WAR OF 1812.

Abraham Fobes, the petitioner, being a constituent of his, with whom he was well acquainted, he felt it a duty to answer some of the objections which had been made to the bill for his relief. He regretted that he was not more familiar with the documentary evidence upon which the bill was reported; but, from what had been read, it appeared that this man, before the last war, removed into Canada in affluent circumstances. That, after the declaration of war, he returned to his native country, and took up arms in her defence. That his family returned to this country destitute, and he could bear witness that he was yet poor. During the war, he rendered services of a peculiar kind, most hazardous and dangerous in themselves, and most important to the Government. He acted as a spy. He had the confidence of his commanding officers, Colonel Christie,[2] and discharged

1. The contemporary spelling for the designation of these funds was invariably "Deposites."

2. Lieutenant-Colonel John Chrystie, died at Fort George in Canada July 22, 1813.

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this delicate and dangerous trust to his entire satisfaction. He was promised by Colonel Christie a handsome reward, but that officer's premature death had prevented his ever realizing it.

"He now asks justice, and only justice, at our hands. But it is insisted that, if we give him anything, we shall only allow him the same that was given to a Canadian volunteer. When we legislate for a whole class of citizens, we must necessarily bring them within the same rule. It is impossible to make a distinction, and graduate the reward according to merit. This man's case does not come within that general rule. He was not provided for by that general act, and, as we have to act upon his case individually, it is certainly right to look into the merits of the case. These services, then, were not the ordinary services of a soldier. They required information and qualifications of a peculiar kind, to enable him to perform them; and their performance exposed him to great and imminent danger. Can a man say this compensation, thus long delayed, was ample?" He thought not; and thought the case fairly distinguishable from that of an ordinary volunteer.

As to the objection that we were liable to be imposed upon by false testimony at so great a length of time after the occurrence, Mr. Fillmore admitted that the objection had its weight when you present a case to which it is applicable. But the evidence in this case was not subject to that objection. It has been read, and appeared to have been taken immediately after the transaction; and, unless those written affidavits and certificates have changed, they are as good evidence of the facts now, as they were when taken.

As to the objection of the honorable gentleman from Ohio [Mr. Vance], that the name of this poor petitioner sounded familiar to him, he said, he hoped that that circumstance would not prejudice the rights of this unfortunate claimant. He doubted not the name was familiar to the honorable gentleman—not for the reason supposed by him, that he had already been compensated; but from the fact that he had long been a petitioner at the bar of that House

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for the compensation which this bill proposed to give. He could not say positively, but he understood that the petitioner had never yet received any compensation for these services; and he hoped this act of justice would be no longer delayed.

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SPEECH ON THE

GENERAL APPROPRIATION BILL

APRIL 17, 1834

April 17th, the question being on a general reduction of salaries in the Departments, Mr. Fillmore said, in substance:

Having voted thus far in favor of the amendment, he wished to give the reasons which had influenced his vote. It was his belief that the salaries at present paid by this Government were too high. He did not possess knowledge enough to enable him to judge with accuracy, but it was apparent to him that the course of the Government had been such as must raise the value of money, and depreciate in proportion that of all other things. This, indeed, seemed to be conceded on all hands; and if the fact were so, and the community were suffering by the act of the Government, he deemed it no more than right and just that the legislators themselves, and all public officers, from the President down, should in this respect be put upon an equality with the people. If the same amount of money would now purchase more of all the necessaries and comforts of life than it would formerly, then the salaries, though reduced in amount, would still be in effect the same. It had been said that this was not the proper time or place to introduce such a reduction. Most of the gentlemen who had spoken professed themselves to be in favor of the measure at some time, and under other circumstances, but not just now. Mr. Fillmore was ready to grant that a bill of supplies was not

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the most appropriate bill in which to introduce this reduction of salaries; but, according to the opinion which had been advanced by the chairman of the Committee on Ways and Means, such a bill was a fit place both for raising and diminishing the annual allowance of persons employed by the Government; for he observed, that in the fortieth line of this bill there was an item for an additional watchman at one of the Departments, and for an increased compensation to watchmen now employed. If an appropriation bill was a fit place to increase salaries, it was equally a fit place to diminish them. It might be said that these were only individual cases, and not a general provision; yet, if the principle was sound, it applied equally to all cases of the kind.

But there was a still stronger reason why the reduction should be introduced now. It would be improper to appropriate the amount of money proposed by this bill, if in fact it was not to be received. If the salaries were to be reduced at all, it ought to be known, and the rate ascertained before the bill was passed. In fixing the rate of compensation for persons in the employ of the General Government, it might be well for Congress to look a little about them, at what was allowed to those under the State Governments. He was best acquainted with the salaries of his own State (New York), and he would for a moment compare some of the amounts allowed to the Federal officers with those which were paid there.

The four heads of Departments under this Government received an annual salary of $6,000 each, while the Governor of his State, which had not inappropriately been denominated the Empire State, received but $4,000. Here the Government paid many of their clerks a salary of $1,600, and some of its commissioners received $2,000 and $3,000. Now, the judges of the Supreme Court of New York, who were not only to decide in all causes of common law, but who occupied seats in the Court of Errors, which was the court of highest and last resort in that State, and whose duties occupied them continually throughout the whole year,

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received but $2,000, and no perquisites of any sort. This had been the case for more than twelve years; and yet, with no higher salary, these stations had commanded the best talents of the State. There was but one court of chancery for that whole State, the most commercial State in the Union, and yet the chancellor received but $2,000, and the place was sought by the most talented men of the profession. Was it not grossly unjust that the same amount should be allowed by this Government to a mere copyist, a scrivener, whose occupation required neither learning nor talents? Mr. Fillmore would not say but that the salaries in New York were too low. It had been proposed to augment some of them by adding $500, but not more. Admitting they were too low, it must still be acknowledged that the salaries under this Government were too high. Mr. Fillmore was in favor of the amendment, for another reason. Some gentlemen spoke of raising a committee to graduate the salaries generally; but let him tell those gentlemen, from his small experience, that if they wanted to see who were receiving too much, and who too little, the most effectual plan would be to reduce the whole, and that would bring before the House speedy applications from those who could make out a good case. But as long as Congress should pursue a course which made it the interest of all office-holders not to expose each other, lest their own compensation should be reduced, nothing in the way of reduction could ever be effected.

[The debate being shared in by various members, at a later hour Mr. Fillmore continued:]

The honorable gentleman from Alabama [Mr. McKinley] seemed to think that it would be a violation of the public faith to those persons now in office to reduce their salaries. This, he confessed, was a novel doctrine to him. He had supposed that the salary of every officer, except that of the President and those of the judiciary, were entirely under the control of the legislative authority. The very fact that the Constitution had declared that you should not reduce the salaries of the President and those of the judges, during

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their continuance in office, left the strongest possible implication to his mind, that the salaries of all other officers were under the entire control of Congress. This was the first time that he had ever heard that doctrine seriously controverted. What would be the consequence of the doctrine contended for by that honorable gentleman? Why, that one Congress after another may go on, from time to time, increasing the salaries of your officers to any amount, and it would be out of the power of any subsequent Legislature to reduce them, unless they should chance to be in session, and the office should happen to be vacant at the same time. These two fortuitous circumstances might not occur simultaneously in many years; the consequence of which would be, that the mistake, or even corruptions of one Congress could not be corrected in many years, if ever. He thought the honorable gentleman must be mistaken, and that there could be no doubt that they possessed the right, without any violation of faith, to reduce these salaries at any time.

But he had been charged by that honorable gentleman with saying that his object in reducing these salaries was to relieve the people from burdens which the present state of affairs rendered them ill able to bear; and the honorable gentleman says, if relief to the people is intended, it should be afforded by reducing taxation, not by reducing the salaries of officers. He had taken a very different view of that subject. He had supposed that, in order to give actual and permanent relief to the people, it was necessary to reduce the expenditure of their money. Cut down the expenses of your Government so as not to require so much to be raised by taxation, and then you can reduce your taxes; but if you reduce your income without retrenching your expenses, you will only gain temporary relief by running in debt. The gentleman seems to have imbibed an impression that it was necessary to expend all the money you raise in paying salaries of officers. He [Mr. Fillmore] admitted no such necessity. He could see no reason why the whole revenue of the nation should be lavished upon its officers. He thought they ought to be allowed a fair com-

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pensation for their services, and then, if there were any surplus funds, they could be well and advantageously applied in the improvement of harbors, and in the construction of roads and canals, and other public works in which the people have a direct and deep interest.

The honorable gentleman has also said that, if the currency be deranged, the office-holders suffer equally with the people. This, Mr. Fillmore said, he denied—that the derangement of the currency was of that nature that it had a direct tendency to injure the people and benefit the office-holder, who received a fixed compensation in cash for his services. What was the derangement complained of? Why, it was this: the action of the Government had been such as to decrease greatly the amount of the circulating medium, by which the value of all property is measured. The consequence of this is, that money, in consequence of its scarcity, has greatly increased in value, as compared with the ordinary products of the country. Or, which is the same thing, the property of the country has greatly decreased in value, when that value is to be estimated in money. He said he had not the means of telling precisely what was this increase in the value of money, and corresponding decrease in the value of other property. He had reason to believe, however, that it was one-fourth or more. He believed, from the best information which he could obtain, that $100 would buy as much wheat now as $125 would six months since, and probably more. If this be so, and other property has fallen in the same ratio, then a salary of $100 is as good now as one of $125 was six months since; and, so far from the officers having suffered equally with the people, they were direct gainers by it. While the products of the farmer and mechanic had been reduced one-fourth in their money value, while the wages of the day laborer have been reduced from one dollar to seventy-five cents per day, all the salaries of all your officers have been, for all practical purposes, increased in the same ratio. And yet, shall we be told that the officers suffer equally with the people? His constituents, he said, were too intelligent to be deceived by such an asser-

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tion. They felt too sensibly the embarrassments under which they were laboring.

But, said Mr. Fillmore, another honorable gentleman, from Pennsylvania [Mr. Galbraith], has said, that the reduction of salaries in this way would be impracticable, and lead to great confusion; that officers could not tell what they were entitled to when their salaries or compensation was reduced 25 per cent. This was a most singular objection. It had struck him with no little surprise. What were the facts?

Why, your officers are paid either by fees or salaries. You pass a law declaring that in all cases hereafter they shall receive but three-fourths of what they were heretofore entitled, by law, to receive. Knowing what they were entitled to receive before this law was passed, how will they ascertain what they are hereafter to receive? He said he supposed there were few of those officers who did not understand the fundamental rules of arithmetic. If so, they had only to divide the amount they were heretofore entitled to receive by four, and subtract that quotient from the original sum, and the difference would be the compensation allowed by this amendment. Were the proposition to increase these salaries and fees one-fourth, he thought they would have no difficulty in finding out how much the law had permitted them to add; and the arithmetical process was equally easy, though the inclination might vary, to ascertain how much the law had compelled them to subtract.

But he said he had been told by his honorable colleague [Mr. Vanderpoel], that he was altogether mistaken in his facts, and that there was no such depreciation in the value of property, and relative increase in the value of money, as he had supposed; that the whole assumption, in the peculiar classic language of the honorable gentleman, was "all a humbug." Mr. Fillmore said he might be mistaken, but he thought not. It was but a short time since, that certain honorable gentleman said that the great embarrassment and distress that prevailed in the country was "all a humbug." Many of those gentlemen had since been compelled to hold

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a different language. Now the honorable gentleman says that the scarcity of money and the depreciation in the value of property is "all a humbug." Mr. Fillmore said that wheat was the staple product of that part of the State of New York where he resided. He had understood that the farmers, who heretofore had been in the habit of receiving about one dollar per bushel, had, within a few months, found it difficult to obtain cash for it at sixty-three cents per bushel. If so, the depreciation in its value was more than thirty-three per cent. And shall they be told, when suffering in this way, that it is "all a humbug"? Shall their sufferings be mocked with language like this? However lightly the gentleman may be disposed to treat this matter, he could assure that honorable gentleman that the people who were groaning under these oppressions—the farmer, the laborer, and the mechanic—regarded them as "humbugs" of a most serious and afflicting nature.

Mr. Fillmore said his honorable colleague had said he should not have spoken, had not he [Mr. Fillmore] alluded to the State of New York. Yet the gentleman had not contradicted a single statement which Mr. Fillmore made in relation to the salaries of the officers of that State. But he had said that the judges of the Supreme Court and the chancellor accepted these offices under an expectation that their salaries were to be increased. He should like to know where was the evidence of any grounds for such an expectation? on what the expection was founded? It was new to him. But one thing was very strange, and that was, if there were any grounds for such expectations, that they had not been realized. The party to which that honorable gentleman was now attached had long had a decided majority in the Legislature. They had had it in their power to meet these just expectations of the judges, if they thought best.

But the gentleman says, an increase of the judges' salaries has been opposed because one of them, when in the convention for framing the Constitution of the State, advocated a low compensation to the members of the Legislature. This, Mr. Fillmore said, might have had an influence

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with some. Those who had the power to pass the law, and did not, could tell best what motives prevented. But he would like to know why or how that prevented the increase of the salaries of the circuit judges, who only received twelve hundred and fifty dollars per annum, with some perquisites? One of these offices was filled, and he believed ably filled, by a brother of the honorable gentleman. He should like to know why these able judicial officers of that State, who performed arduous and responsible duties, were permitted to receive this small compensation, when the party to which they and the honorable gentleman belonged had the entire ascendency in the legislative councils of the State, and yet pay a mere clerk in this place the sum of sixteen hundred dollars per year? Something was evidently wrong about this. He would not say that the salaries of the judges and the circuit judges of the State of New York were or were not enough. He believed, however, that their most ardent friends had only proposed to raise them about five hundred dollars each. Even that increase has not been made, and they have stood as they now are for about thirteen years. And during that time, he believed, there had been no difficulty in commanding the best judicial talent in the State. Then, said he, is there not something grossly unjust in allowing these enormous salaries to the commissioners and clerks in the General Government?

He saw no reason why the Government should not adopt the same rule in employing its servants that every man adopted in his own business; to pay that amount which would command the services of a person of competent talents, skill, integrity, and qualifications, to discharge the duties of the office, and no more. While you pay such large salaries to your officers of the Federal Government, and such low salaries to the officers of the State Governments, it is offering a bribe for every man of talents and enterprise to abandon the service of the State Governments, and obtain an office in the General Government. He thought the compensation for similar services ought to approximate nearer than what it did. He thought the salaries of the

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officers in the General Government too high. It would be difficult, he thought, to make a laboring man, who toils hard from sunrise to sunset for seventy-five cents, understand what justice there was in giving to one of your secretaries almost seventeen dollars a day, or to a clerk, who labors only five or six hours, five dollars per day. But even if they were made to see and acknowledge the justice of this extraordinary difference, they must still think it extremely unjust to have the Government, by deranging the currency, reduce their small pittance one-fourth, and yet continue these large compensations to the public servants at their full amount. He did not see the injustice in this reduction of salaries, of which the gentleman complained. He thought it the highest act of justice. He believed Members of Congress were paid less for their services and sacrifices than any other officers of the Federal Government, with but few exceptions. Yet he was willing, for one, to participate in the reduction. He would not ask another to do that which he would not do himself.

Though he felt that he was guiltless in producing the distress and embarrassments under which the people then labored, yet he was no more innocent than they were; and, without charging intentional wrong to any one, he could only say that, for himself, he was willing to participate with the community in the privations under which they suffered. He was willing to suffer a reduction of his compensation, in the same ratio that he asked the other officers of the Government to reduce theirs. And while he doubted, somewhat, the form or manner of making these reductions, he did not doubt the justice and duty of the act; and believing that form should always yield to substance, the clear conviction of duty to that which was doubtful in manner, he should most cheerfully and cordially give his support to the amendment offered by the honorable gentleman from Ohio [Mr. Vance].

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SPECIE TENDER BILL.

On May 2d, a bill for making certain foreign silver coins a legal tender in the United States, was before the House.

Mr. Fillmore objected to the provisions of the bill as he understood them. Its object was to provide that, in payment of all sums over one hundred dollars, certain foreign coins should be legal tender, according to their weight and fineness. Now, in practice, it would be very inconvenient for the person making a payment, not only to weigh, but assay the coin. He thought it should be provided that if the coin bore a certain recognized stamp, the burden of showing its inferiority to the standard of that stamp should be cast upon the objecting party. Besides, the weighing was very inconvenient. He would much prefer having foreign coins made a legal tender by tale, as they were now, in the ordinary circulation of the country.

Mr. Fillmore said that the bill before the House proposed to make foreign coin legal tender to a certain amount. But, under what circumstances was this coin to become a tender? If a man owed a debt, and had a quantity of this foreign money, what must he do? He must first get it assayed, to see if it was of the requisite fineness, and then he must have it weighed, to determine whether it was of the full legal weight, and then, after all this trouble and ceremony, he might tender the money in payment of his debt. But why did men coin money? To what end? That it might, in the public stamp it bore, carry with it *prima facie* evidence both of fineness and weight, and that thus the constant necessity of weighing and assaying might be saved. The present bill threw this advantage quite away. The friends of the bill themselves admitted that the coins of Mexico were usually of the requisite fineness, and they ascribed great credit to the Government of Mexico that such was the fact. Now, all he asked was a law to give this credit in a substantial form; to allow that coin to pass, *prima facie*, as the requisite weight and quality, and to throw the proof to the contrary on the individual who should refuse it when tendered. Why

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should not this money be a legal tender in payment of small debts as well as larger ones? Why allow banks and rich capitalists to pay their large debts in a way the small debtor cannot pay his? It was said, that the value of our metallic currency must be raised: he had no objection to this; but let it be a whole currency, and not a partial one. Let it be a universal tender for sums great and small, and not a currency for only a part of the community.

ON THE FORTIFICATION BILL.

Much debate was held in the House, in June, 1834, on the bill providing or improving certain fortifications. On a motion to strike out an item of $100,000 for the fort on George's Island, Boston harbor, Mr. Fillmore spoke at length.

The gentleman from Kentucky [Mr. Hawes], he said, seemed to congratulate himself on obtaining his vote against the appropriation, because some of the members from Massachusetts had voted to lay the harbor bill on the table; the gentleman would find himself mistaken. Mr. Fillmore should vote on every bill or motion submitted in that House upon its own merits; and should not be governed by what might have been the course of particular gentlemen on other bills. He had at first supposed that there was some difference in the estimates of the War Department and the gentleman from Tennessee [Mr. Polk] as to the cost of this fort. He now found that there was none; but that it was only intended to omit the appropriation for the present year. And for what reason was it to be omitted? Professedly, on a recommendation by the Secretary. But the Secretary recommended no such thing. The Secretary had recommended the appropriation; the Committee of Ways and Means had agreed to it, and had reported it to the House; and now, after months had elapsed, an informal letter to a member of the House was produced. And what did it state? That the Secretary had changed his mind? That

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he had discovered some reason why it was improper to make the appropriation? No: nothing like it. All the Secretary said was, that if the House were determined to reduce the sum asked for, they might omit this fort. That was the whole of this letter, so much relied upon. But if it was proper in peace to prepare for war, and if this work of defence was important and necessary, what was there in that letter to induce the House to withhold the appropriation? Had any new state of things arisen to induce the Secretary, the committee, or the House, to change their views? It was said that no war threatened us. But had we not as much reason to expect war now as we had a few months since? Had anything occurred, since then, to impair the ability of the nation to defend itself? Was there any wisdom in omitting to fortify when fortification was needed, and the treasury able to bear it? Why, then, was not some good reason advanced in support of the motion to strike out? Why were the House to be told, the Secretary recommended it? Because a work had not yet been commenced, did that prove that it was unimportant; or even that it was less important than other works which had been commenced?

Mr. Fillmore said he would not allude, as a gentleman had done, to the expenditure under a preceding Administration. Should gentlemen go into that subject, subjects of profligacy would not be wanting; but he did not admit that works of internal improvement, or works of military defence, were to be numbered among them. The gentleman seemed to consider all such expenditures as mere profligacy. But Mr. Fillmore would rather point to high salaries, and to the enormous system of pensions. Money judiciously applied in the erection of fortifications was anything but wasted. The gentleman from Kentucky [Mr. Hawes] might not fear any injury he should sustain from an attack on Boston harbor; but that did not render it the less his duty to provide for its defence. The country was one; its safety was one. It was then his duty to provide for the security of every part of it. Had the nation ever objected to pay the expenses of the late border war to protect the

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West from the ferocity of the Indians? Had it refused to erect forts upon the frontier? Ah, but all these were national expenditures. Indeed! and was not a fort to protect a harbor in the East as national an object of expenditure as a fort to protect the frontiers of the West? Mr. Fillmore should vote for the item. Local feelings had nothing to do with it. He went alike for Boston, New York, and New Orleans.

THE PUBLIC MONEYS.

The following resolution being before the House:

"*Resolved,* That the Secretary of the Treasury be directed to communicate to this House whether, in his opinion, it is practicable or convenient for that Department to collect, safely keep, and disburse the public moneys of the United States without the agency of a bank or banks; and if so, to report to this House the best mode, in his opinion, by which that object can be accomplished,"

Mr. Fillmore, on January 3, 1835, spoke in substance as follows:

He regretted extremely, he observed, to see this controversy on the subject of a national bank renewed at this time. He was willing that every species of information which was desired should be obtained, but he was not aware that it was either proper or common to ask the opinion of the Secretary of the Treasury as to the effect of legislative measures. His limited experience in the House would not, however, justify him in asserting that such a call was unusual and improper. But it appeared to him to be undignified to call upon the head of a Department for an opinion. It had been said that there was no difference between the power of creating a fiscal agent and employing one already in existence: but to this he would not assent. The power to create and the power to contract with or employ an agent, were, in his view, separate and distinct from each other. This opinion he illustrated by various instances. We might,

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for example, employ a company in the transportation of stores or munitions of war, without having the power to incorporate a transportation company. He did not undertake to contradict the power, on the part of the Government, to incorporate a bank, but was clearly of the opinion that we could, constitutionally, make use of the State institutions as fiscal agents. At all events, he was unwilling to call upon the Secretary of the Treasury for an opinion, especially as that opinion had already been furnished.

VIVA VOCE ELECTIONS.

On January 24, 1835, the House having under consideration the following:

"*Resolved,* That hereafter, in all elections made by the House of Representatives (for officers), the votes shall be given *viva voce,* each member in his place naming aloud the person for whom he votes,"

Mr. Fillmore said:

This resolution seems to involve some new and important principles, and since its introduction, I have found little leisure to reflect upon or investigate them. From the little consideration, however, which I have been able to give this subject, I am induced to believe that an appointing power, vested in a legislative body, may be divided into two kinds. One, is that exercised by every legislative body in appointing its own officers, whose power and authority are limited entirely to the body which appoints them, and who exercise no general jurisdiction or authority whatever over the rights of the citizen. The other is that often conferred upon and exercised by the legislature in appointing officers for the nation or State. The former may, with equal propriety, be exercised either by ballot or by an open nomination *viva voce.* It partakes of the nature of the sovereign authority of the citizen when exercising the elective franchise. In my State, when exercised by the citizens at large, it is always

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by ballot; and it is the same in the State Legislature. We elect our Speaker by ballot, and I am not aware that any inconvenience has been found to result from this rule, or that there has been any attempt made to change it.

But when the appointing power is exercised by a legislative body, for the State or nation, I am clearly of opinion that it should always be done by open nomination. It is then an exercise of delegated power, in which the constituent is interested, and he has a right to know how the trust has been discharged.

The appointing power which this House can exercise is entirely of the former kind. It appoints no officer having general authority over the citizen, and merely those whose jurisdiction is limited to ourselves. The words of the Constitution are: "The House of Representatives shall choose their own Speaker and other officers." Our power, then, is limited to the choice of a speaker, clerk, sergeant-at-arms, etc., each and all of whom are peculiarly officers of this House, and not of the nation. This will appear more clear, and the distinction which I have taken more palpable, by reference to another part of the Constitution where the appointing power for officers of the *nation* is expressly vested in a different department. Speaking of the power of the President, it says:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. And he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors or other public ministers, and consuls, judges of the Supreme Court, *and all other officers of the United States,* whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law invest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the Heads of Department."

Here the Constitution clearly points out the distinction which I have taken between *officers of the United States,* and officers of this House. The one is to be appointed by

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the President, by and with the advice and consent of the Senate, and can in no event be appointed by this House. It is not even in the power of Congress to confer this power upon the House. Congress may create an office, and declare its duties, and if it be an inferior one, may confer the appointing power to fill it upon the President alone, the courts, or the heads of Department; but in no event can they confer that power upon this House. The Constitution has given no such discretion, and our authority is limited simply to the appointment of officers for our own body, and not, in the language of the Constitution, *for the United States.* And whether these officers of our own body shall be elected by ballot or *viva voce,* I think not very material. Unless there be some good reason for changing the rule at this time, I should be disposed to let it remain as it is.

But, sir, I suppose the fact is that this change is to be effected for the purpose of having some influence in the election or appointment of a printer to this House. It can have no influence on any other appointment. All others, which we have the power to make, are already made. We may as well, then, meet the question fairly, and see whether the resolution will reach this subject, and if it will, whether we have the power to effect it.

The first inquiry is this: Is the printer to this House an *officer?* If he be not, then the resolution will not reach his case, or affect the mode of his appointment. This is rather a difficult question to determine, but from the consideration I have been able to give the subject, I am inclined to think that he is not an *officer,* but a mere *contractor.* He takes no oath of office. He exercises no authority, but merely *contracts* with the Government to perform certain services, and gives security for their performance, and, if he does not comply with his contract, he is liable to be prosecuted upon it, and be compelled to respond in damages. But, perhaps, a better criterion for determining whether he is an officer or contractor, is this: Can he resign? Every officer on whom authority is conferred may resign his office at pleasure and restore the power to the fountain whence he re-

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ceived it. Not so with the contractor—he has received no power, he has none to resign. He has entered into a contract to perform services, and must perform his contract or subject himself to a right of action for a breach of it.

I am further confirmed in this opinion by a reference to the joint resolution or law under which this person is appointed by this House to perform these services. That resolution provides that in the case the printer with whom we contract to do the printing of this House shall fail to perform his contract, that then the Clerk of this House may employ another printer to execute any portion of the work. Now, if this person be an officer, and an officer of this House, then he must be chosen by the House. The Constitution expressly declares that we shall choose our "Speaker and *other officers*," and gives us no authority to delegate this power of choosing our officers to the clerk, or any other officer or department. But if it be said that he is an officer of the Nation, and not of this House, then it is equally clear from that part of the Constitution which I have read, that we have no power to appoint him. Congress itself could not confer that power upon us. The Constitution has expressly invested this power of appointing "officers of the United States" in other departments.

The legislative authority of the nation has, by this joint resolution, created us an agent to contract with any person whom we shall designate by our votes to do the printing for this House. This power to make this contract might have been vested in any other body or officer. In a certain contingency it is now vested in the Clerk of our House. Does the Clerk, when he exercises this authority, act as an officer of this House, or as an agent of the United States, under the authority conferred upon him by the joint resolution? Clearly in the latter capacity. As Clerk he is authorized to make no contract. The authority comes from both Houses of Congress with the assent of the President, and has the force and effect of a law. It is the same to him and to us, derived from the same source, and might be conferred, as well to enter into a contract to build this Capitol, as to do

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the printing for this House; and in my opinion the printer is no more an officer in the one case than the builder in the other.

But suppose I am mistaken in this, and that the Printer is an officer of this House, then, Sir, by the Constitution we can not elect him for the next Congress. "Each House is to choose its *own officers.*" The authority of this House will soon be at an end, and another is to succeed it. Can we elect a Speaker for the next House, or Clerk? No one will pretend it. And by parity of reasoning we cannot choose a Printer, if he be an officer of the House. This question was a good deal agitated last winter. It was then said that the Printer was an officer of this House, and that by the Constitution each House was to elect its own officers, and that, therefore, the appointment of the Printer by the last House of Representatives was not binding upon us, and we might go on and choose another for ourselves. I have some curiosity to see how those who maintained these doctrines will act now. Will they be inclined to choose a Printer from the next House of Representatives, and if so, by what authority will they do it? Clearly, they cannot, under the Constitution, for each House elects its own officers. Then they must under this joint resolution, and we will look to its provisions again. It was passed in 1819, by both Houses of Congress, and approved by the President, and is, in reality, a law of the United States, so far as it has not been repealed. It first provides for the form and manner in which the printing of *Congress*—not of this House—shall be done. It then establishes the prices which are to be allowed for composition, and presswork; and then provides as follows:

"That as soon as this resolution shall have been approved by the President of the United States, each House shall proceed to *ballot* for a printer to execute its work during the next Congress; and the person having the greatest number of votes shall be considered duly elected, and shall give bond with sureties, to the satisfaction of the Secretary of the Senate, the Clerk of the House of Representatives, re-

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spectively, for the prompt, accurate, and neat execution of the work, and in case any inconvenient delay, should be at any time experienced by either House, in the delivery of its work, the Secretary and Clerk, respectively, may be authorized to employ another printer," etc.

Now, sir, it is clear that this resolution can only be altered or repealed by an authority equal to that which enacted it. We cannot, by a simple resolution of this House, repeal a law of Congress. No one will pretend this; and I find no subsequent law or joint resolution altering the mode here pointed out for electing a printer. This resolution declares expressly that it shall be by a *"ballot."* Can we then say that it shall be *viva voce?* We must either elect this person under the resolution, by virtue of the authority there conferred, and in the manner there prescribed, or else under the authority conferred upon us in the Constitution to elect our own officers. If we take the former, we must pursue the authority given to us. We can no more alter the mode of executing that power than we can add to the power itself. But if we take the latter, then we cannot elect at all. Each House must elect its own printer, and we cannot elect one for the House that is to succeed us. So gentlemen may take either horn of the dilemma, and I do not perceive that the resolution under consideration is calculated to aid the objects which they have in view. If we will alter this mode of appointment, it must be done by a joint resolution. It cannot be done by a simple resolution of this House; and as that is evidently the intent, I shall be compelled to vote against the resolution as it now stands.

In this session Mr. Fillmore participated in debate on the Alabama two per cent. fund bill; on allowances to the committee on the post-office; and in a discussion which developed on the presentation of a memorial, signed by citizens of Rochester, praying Congress to abolish slavery

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within the District of Columbia. Mr. Fillmore's remarks on this subject, February 16, 1835, are reported in abstract:

ABOLITION OF SLAVERY IN THE DISTRICT OF COLUMBIA.

Mr. Fillmore said, as it was understood that the Committee on the District of Columbia would not act on this subject at the present session, it was certainly due to the petitioners that the motion which had been made by his colleague [Mr. Dickson] should prevail. It was not unreasonable that the memorial should be printed and preserved among the documents of the House. He disavowed, most unequivocally, now and forever, any right on his part to interfere with the rights, or what was termed the property, of the citizens of other States. While he did this, he conceived that, as a citizen of the State of New York, and a member of this House, he was interested in the claim to property in man within the District of Columbia. He referred to the effect which was produced in the North by the advertisements in the papers of this city connected with the purchase and transportation of slaves. The people of that section of the country believed slavery to be improper, and that it should not be tolerated. This was a great national question. There was nothing in the memorial which should prevent its being printed and placed on the files of the House for future reference. Whenever petitions should be presented here from the slave-holding States, of a different tenor, and which might advocate the establishment or continuance of slave markets in this District and city, if they could satisfy the people of other sections that this was proper, he would treat their petitions with respect. He was willing that each party should be fully heard, and that each should have the privilege of spreading their views before the people generally.

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SPEECH ON THE SURPLUS REVENUE

September 25, 1837, Mr. Fillmore addressed the House, in Committee of the Whole, on the bill to postpone the fourth instalment, opposing the measure on the ground that it impaired a contract, and that the condition of the Treasury did not warrant it, or that if it did, means should be found, either by loan, or by withholding other appropriations, to comply with the obligations of the deposit law. He doubted the expediency of incorporating a United States Bank as a relief to the financial situation. Mr. Fillmore said:

It is with extreme reluctance that I venture to throw myself upon the indulgence of the committee, at this late hour of the day, and after such a protracted debate. But it is not my fault, sir, that I address you at this time. I have made every reasonable effort, that a modest man could make, for some days, to obtain the floor; and now, for the first time, I have been successful. I am now prepared, notwithstanding the lateness of the hour, to offer what I have to say on this subject; but if the committee prefer to rise, and continue the discussion. tomorrow, it will suit me quite as well. For the purpose of testing the sense of the committee on that point, I will cheerfully yield the floor for a motion to rise. [A motion was made to rise, which was negatived, and Mr. Fillmore proceeded.] I am content with the determination of the committee to hear me tonight.

What then, sir, is the history of this surplus revenue, upon which the bill upon your table is to operate, and which has elicited such warm discussion? It is this, sir—our revenue had been graduated upon a scale sufficiently large,

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for many years, to collect from the people, chiefly duties, a sum, which, together with the moneys received from the sale of public lands, not only defrayed all the expenses of Government, but left annually a large surplus to be applied in payment of the national debt. This debt, sir, which at the adoption of the Federal Constitution, was upwards of $75,000,000, had by the operation of this system been gradually reduced, so that by 1812, before the commencement of the last war, it was only about $45,000,000. The expenses of that war again increased this debt, so that in 1816 it was upwards of $127,000,000. A wise forecast had made ample provision for its payment, and year by year it has lessened, until 1834, when it was finally extinguished.

It was apparent, sir, to all, before this debt was finally liquidated, that when that event did occur, the same system of indirect taxation, which could not suddenly be changed without injury to our manufactures, must throw a large amount of surplus revenue into the Treasury. This money having been thus collected from the people, or being the avails of the public lands, it was thought no more than reasonable, as it was not wanted for Government purposes, to return it again to the people, from whom it had been taken, and whose it was. I shall not now stop, sir, to inquire into the justice or constitutionality of the measure. It was clearly just. The Government had this fund as the agent of the people. I hold, sir, that the Government, in all cases, is but the agent and instrument of the people, constituted to execute their collective will.

To restore this large amount of money to the use of those from whom it had been taken, with as little injury as possible to the country, Congress passed a law on the 26th day of June, 1836, by which it was declared that the Secretary of the Treasury should, on the 1st day of January, 1837, ascertain how much money there was in the Treasury, and deduct from the whole sum thus found $5,000,000, and that the remainder should be deposited with the several States, or such of them as should consent to receive the same, one-fourth on each of the 1st days of January, April, July and

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October, in 1837, upon the conditions prescribed in the act; which were, that the States should keep it safely, and return it again to the United States, in sums not exceeding $10,000 per month from any one State, and so in the like proportion from other States, when wanted for the use of the Government, and demanded by the Secretary of the Treasury. But the Secretary was authorized to draw for $20,000 on giving thirty days' notice. I do not pretend, sir, to give the words of the act verbatim, as I have it not before me, and I only speak from recollection. But this is the substance of the act of Congress.

This, sir, was the proposition on the part of the United States, of the terms upon which they were willing to deposit this money with the States. This too was a proposition emanating from the highest—nay, from all the separate—Departments of this Government. It was pledging the national faith in the most solemn manner that it could be pledged, by a law which received the assent of both Houses of Congress and the approbation of the President.

The State of New York, by an act of its Legislature, passed I think in January, 1837, agreed to accept this proposition made by the United States, and to receive the money, and safely keep and return the same when called for, according to the terms of said Act of Congress; and pledged the faith of the State for the faithful performance of these acts. This, then, constituted the contract or compact between the parties.

The Secretary of the Treasury, as directed by the act of Congress, ascertained on the 1st day of January the amount of money in the Treasury, and after deducting, as he supposed, $5,000,000 from that sum, found there remained to be deposited with the States $37,468,859.97. I say as he "supposed," sir; for it now appears by his late report to this House, that there was $1,670,137.52 in the Treasury (that is, sir, in the pet banks), on that day, of which he had received no account. So that, in reality, he reserved $6,670,137.52 instead of the $5,000,000, as directed by the Act.

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Well, sir, the portion of this which belongs to the State of New York by the terms of the compact was $5,352,694.28, three-fourths of which has been received by that State; and the bill now on your table proposes to postpone the payment of the remaining $1,338,173.57, to which the State will be entitled on the 1st day of October next, by the terms of the compact.

Now, sir, let it be borne in mind that this is one entire contract, in reference to one entire sum of money, and that it has been partially performed. I say, sir, the sum is entire. Although it was to be paid at different times, yet the appropriation was of the entire sum that should be found in the Treasury on a certain day. That sum, when ascertained in the manner prescribed by the act, was the money set apart for this specific purpose. It was in legal intendment as definite and fixed as though the money had then been counted out at the several banks where it was deposited on that day, and laid aside for this object. True, it was to be paid out at different times. But this was to accommodate the banks, and prevent a derangement of the currency, and consequent distress of the community, by calling for too large sums at once.

But, Mr. Chairman, I am opposed to the bill upon your table. I am opposed to it first, sir, on the ground that it is hypocritical and false in its language. The title of the bill is an "act to postpone" the payment of this fourth installment. This is a false label, sir, to the door through which we are to enter into the mysteries of this bill. But let us look to the bill itself. It declares that the payment of this installment "shall be postponed until further provision by law." What is this then, sir, but a repeal of so much of the Act of 1836 as authorizes the payment of this fourth installment? It does not merely postpone the payment to a definite time, then to be made without any further legislative action; but postpones it until further "provision by law," that is, until by a new law Congress shall direct this payment to be made. If this bill pass, nothing short of a new law can ever give this money to the States. Then the effect of this bill is to repeal the law of 1836.

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Why not say so, then? Why profess to postpone, when you absolutely revoke? Why not call things by their right names? Is there some iniquity in this transaction that it is necessary to conceal? Is it intended to excite expectations among the people that are never to be realized? Sir, I disdain such a course. I will never give my vote for a law that, on its face, bears evidence of fraudulent concealment and hypocritical designs.

I am aware, sir, that an amendment has been offered by the gentleman from South Carolina [Mr. Pickens], that, if adopted, would obviate this objection. But as that amendment is undoubtedly intended to sugar over this nauseous pill, to make it a little more palatable to some who loathe it now, and as I should still be opposed to the bill if the amendment were adopted, for reasons which I shall hereafter give, I am inclined to let those who are prepared to swallow anything, take the dose as it is, and vote against the amendment as well as the bill. If this money be not now paid, I have no idea that the States will ever receive it. Let us have it now, according to the promise, or tell us at once that we have nothing to expect. Do not tantalize us by exciting further hopes that are never to be realized.

But, sir, I am also opposed to the bill for another reason; and that is, that this sudden change of the destiny of near ten millions of dollars is calculated still further to derange the currency and business operations of the country and add to the accumulated distresses of the community under which they now labor. If there be one truth, above all others, well settled in political economy, it is this: that if you would make a nation prosperous and happy, give them a uniform and unchangeable currency. It is as essential as uniformity and stability in your weights and measures. This currency is the life-blood of the body politic. Its supply should be equal and uniform. Every throb of the heart is felt to the utmost extremities. If the regular flow and pulsation fail, languor and faintness follow; but "over-action," as the President calls it, often produces instantaneous paralysis and prostration. The political empirics have administered

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dose upon dose, and tried experiment after experiment, until the patient is prostrate and helpless, writhing in agony, and imploring for relief. If ever there was a nation or an individual to whom that famous epitaph was peculiarly appropriate, it is this nation and this administration:

"I was well; I wished to be better;
I took physic, and here I am."

I am opposed to this bill, sir, for another reason. Its object and intent is to violate the plighted faith of this nation. I shall not enter into an examination to see whether the offer on the part of the United States, which was acceded to by the State of New York, in the manner that I have already stated, was or was not a pecuniary contract, according to the strict rules of the common law, which might be enforced in a court of justice. This point has been most fully and eloquently discussed by my colleague immediately in front of me [Mr. Sibley]. I could add nothing to what he has said on that subject. It is said that the United States have received no consideration for the promise. But, sir, I am disposed to place this question upon higher grounds. Does it become this nation, or the American Congress, to stand here paltering about the redemption of its plighted faith to one of the daughters of this Union, on the ground that it has received no consideration for the promise which it made? Has this nation indeed sunk so low, that it takes shelter from its engagements, when it finds it inconvenient to perform them, behind the statute of frauds? The reason why a consideration is required to enforce a contract between individuals does not apply to this case. That is a rule adopted by the courts, to protect the inconsiderate and the unwary from the consequences of their own folly in making hasty promises without consideration. But even as between individuals, if the manner in which the contract has been made evinces a due degree of deliberation, then the courts will enforce it. If, for instance, the contract be sealed, that is regarded as a solemn act, and evidences such caution and deliberation, that the courts, by the common law,

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preclude all inquiry into the consideration, and compel the obligor to perform his contract. This case shows the reason of the rule, and I submit that it has no applicability here. Will the gentlemen say that Congress was surprised into this promise? that there was not due deliberation had on the subject? or that the congregated wisdom of this nation requires such a miserable subterfuge as this, to justify to its own conscience the violation of its plighted faith? Sir, was not the contract sufficiently solemn? It is among the sacred archives of your nation. It is of the same high and solemn character with your treaties with foreign nations. Nay, if possible, sir, it is still higher, and more obligatory upon the nation. A treaty is only sanctioned by the President and Senate. This, sir, has been sealed with the national honor, and attested by the national faith of both branches of Congress and the Executive; and you may call it contract, compact, or treaty, it is clearly a promise by the nation, in the most solemn form that a promise can be made.

Sir, have the gentlemen who are in favor of this bill duly reflected upon its nature and consequences? Have they duly considered the value of the national honor? Would any one dare to make a proposition to break our national faith, if it had been pledged to a foreign power, as it has been to the several States of this Union? I trust not. Then, sir, is the obligation less sacred to the various States of this confederacy, especially when made for the benefit of the people themselves, in reference to their own money? I hope not. But, sir, if we violate our plighted faith here, may we not do it in other cases? Your pension laws, passed for the relief of the war-worn veteran and the hardy mariner, promise to those individuals a mere gratuity. It is the bounty which a generous nation bestows upon its brave defenders. But it has no elements of a pecuniary contract. There is no such reciprocity in those cases, as in this, to constitute a contract. No promise or service is required from the pensioner as a *quid pro quo* for the bounty which you bestow. But in this case you have required and received the plighted faith of the State of New York to receive this

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money, keep it safely, and repay it in certain proportions. Would any member of this House have the hardihood to propose a bill to withhold the payment of these pensions, and then assign as a reason that there is no valid contract for paying them? I presume not. Sir, there is something of more value to a nation than money. It is untarnished honor —unbroken faith. They should be as spotless as female chastity.

"One false step in vain we may deplore;
We fall like stars that set to rise no more."

The reason why every promise should be performed, is, that it has raised expectations which in justice ought not to be disappointed. The whole business of life is an endless chain of confidence growing out of these promises, express or implied. And frequently the breaking of one link sunders a thousand.

"Whatever link you strike,
Tenth or ten-thousandth, breaks the chain alike."

Look at its effects, in this case, upon the single State of New York. That State, relying upon the plighted faith of this nation, has gone on and agreed to loan out all this money to citizens throughout the State, giving to each town and ward their ratable proportion. Bonds and mortgages have been taken for the whole amount; and the three-fourths which has been received by the State from this Government, has been paid over to the borrowers, and promises in the shape of certificates given to pay over the remaining fourth on the 1st of October. The State has relied upon the promises of this Government for the money to pay these certificates. Now, sir, unless the money can be raised in some other way by the State, if this be withheld, all those numerous borrowers must be disappointed. Those who have struggled from day to day, and from week to week, to bear up against the pressure of the times, until they could obtain this pittance of relief, are to sink down in utter despair.

But, sir, what is the difference between the promise on the part of the State to loan this money to individuals, and

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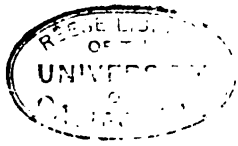
the promise on the part of this Government to deposit this money with the States? A deposit is a loan; and the person with whom the deposit is made becomes the borrower, liable to repay the money according to the terms agreed. This Government, then, has agreed to loan the money to the State of New York; and has taken the bond and mortgage of that State, in the shape of a solemn act of its Legislature, to repay it on certain terms. The State has agreed to loan the same sum to individuals, and has taken their bonds and mortgages for the repayment of the same. Then if this Government can be justified in breaking this agreement, much more will the State of New York be justified in the breech of the agreement to the individual borrowers. The State may not only plead the high example of this nation in the breach of its promise, but may urge, with perfect justice, that the breach of faith by the United States, on which the State had unfortunately relied, had prevented the State from fulfilling its engagements.

Will any of my colleagues who now urge a breach of faith on the part of the United States, in withholding this instalment, say that they believe that the State of New York will be guilty of a similar breach to the borrowers of this money? I know they will not stain her honor by such an insinuation. Then how can they justify themselves to their God or their country, in lending their votes or their voices to dishoner this nation, in such a manner as would be regarded a reproach and disgrace to the State in which we live? I hope gentlemen will pause and reflect before they finally act.

But, sir, one of my colleagues [Mr. Parker] has attempted to justify this breach of faith on the part of this Government, by saying that the State of New York would sustain no damage, because there was a large amount of money belonging to the canal fund of that State, now on deposit in the banks, drawing an interest to the State of only four or five per cent., and this money could be taken to make up the fourth instalment of the loans to individuals; which would thereby be invested on interest at seven per cent., and



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the State, instead of being a loser, would be a gainer of two or three per cent. per annum on this money. Sir, this is not a question of damages. It is a question of national honor. It is a question of national faith. Can you measure the value of these by the base standard of dollars and cents?

But, sir, if this statement be true, that this immense treasure belonging to the canal fund in our State has been for years loaned to the banks at four or five per cent. interest, when it could have been loaned to the people on bond and mortgage at seven per cent., then it does not reflect much credit upon the financial skill of those in our own State who have had charge of this fund. But, leaving them to the tender mercies of their friends upon this floor, let us see whether my colleague is correct in his inferences. If his reasoning be correct, the whole sum that has been deposited with the State has been an injury instead of a benefit. This must appear a strange paradox indeed. The State had it from the United States without interest, and loaned it out at seven per cent., thereby making annually upon the whole sum of $5,352,694 the no less sum than $374,688.58, being nearly four times as much as is annually distributed from the State treasury for the support of common schools in that great State, where about 500,000 children are annually educated. I think my honorable colleague, on reviewing his calculation, will see that he has made a slight mistake in arriving at this result, and that it is somewhat better to have money for nothing, than to pay even four or five per cent. for it.

But if my colleague [Mr. Foster] is right in the construction which he gives to the Deposit Act of 1836, then it is equally clear, that in no event is this money, if once deposited with the States, to be repaid again to the General Government. I believe that no one ever expected it would be recalled. The money was deemed the property of the citizens of the several States. It had been collected from them in the shape of duties, or was the avails of the public lands. In either case, if not wanted for the uses of the Government, it was deemed just to return it to the people, to whom it be-

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longed. To avoid constitutional objections, the law by which this return was made, was christened "a deposit act," instead of "a distribution act." But I care not what form or shape it assumes. Do justice—restore the money to whom it belongs; and let it be appropriated to the sacred object of education—an object dear to the heart of every patriot. If we sue [*?sow*] due economy here, our revenue is abundant. If it is to be squandered, the less there is, the better for the people.

Let my colleagues who believe in the infallibility of the *Argus* listen to an extract which I will read from that paper, and then vote against this bill. Remember that this extract is the honest, unbiased opinion of that oracle of wisdom, in view of an exhausted Treasury, before party prejudice began to operate. It is as follows:

"A remedy for any such contingency may be provided by Congress by an issue of Treasury notes, or some other expedient measure, that would be less objectionable than any interference with the arrangements made with the States for the disposition of the surplus."

Sir, we are told that this bill should pass, because there is no money in the Treasury to make the payment. This, then, is a distinct admission that your Treasury is bankrupt. Yes, sir, in less than one short year from the time this Government, through all its official organs, and its hundred presses, was boasting of its wealth and prosperity, with an overflowing Treasury, and no national debt, it now comes like an humble suppliant to the Representatives of the people, and says it is bankrupt, and cannot pay. If the Treasury be empty, why pass this law? Will it withhold what you have not got? Will it postpone what does not exist? Our legislation seems to be a work of supererogation. It is making laws for a nonentity. But some say we should pass the law as a direction to the Secretary of the Treasury. Why pass it for him? He is not bound to furnish the money, if it does not exist. His duty is discharged, if he pays it over when we provide it. But, sir, we have passed one law, dis-

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tinctly appropriating this identical money then in the Treasury, to this object, and directing him to pay it over. Why has he not obeyed that law, and kept the money to be applied to this object? He had no authority to take this and apply it to any other purpose. The act was imperative, that the identical money in the Treasury on the 1st day of January last should be deposited with the States. I think, sir, instead of attempting to legalize this breach of trust on the part of the Secretary in using this money, not only without law, but against law, we had better institute an inquiry into his conduct for laying his hands upon this sacred treasure, and see if he has any justification.

But is the pretence true, that the money is not in the Treasury? This seems to be a difficult question to answer. I shall not venture into that labyrinth of mysteries, the Secretary's report. The bewildered senses and contradictory reports of those who have attempted to pass through its intricate windings and involutions, admonish me to beware how I venture. No two have been able to agree as to what they saw there. Some saw treasure; others saw nothing but "confusion worse confounded," and in this state of doubt and uncertainty it becomes us to inquire if there be no collateral aid, by the light of which the mysteries of this report may be unravelled. In the absence of positive proof, let us look at probabilities. The last Administration professed to be one of "retrenchment and reform"; and the present Executive has declared that he intends "to follow in the footsteps of his illustrious predecessor." We have, therefore, a right to expect, and the people did expect, economy in both. Have they been deceived? Has this "promise been made to the ear and broken to the hope"? Have these professions, that elevated the present dynasty to power, been hollow and hypocritical? Let us look at the facts, and see how the matter stands, if the Treasury be now bankrupt, as is alleged by those in this House who support the Administration.

From a careful examination of the expenses of this Government for twelve years, that is, from 1819 to 1833, exclusive of the national debt, I find that they averaged about

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$13,000,000 per year. I give them in tabular form as follows, from the best estimates I can make:

Year	Expenses of Government	Whole amount for four years	Average per year	Whose Administration
1822.....	$ 6,534,394 09			
1823.....	9,784,154 50			
1824.....	10,328,141 71			
1825.....	11,490,459 94	$38,137,150 33	$ 9,534,287 58	Mr. Monroe
1826.....	13,062,316 27			
1827.....	12,653,095 65			
1828.....	13,296,041 00			
1829.....	12,659,490 62	51,670,943 54	12,917,735 88	Mr. Adams
1830.....	13,229,533 33			
1831.....	13,864,067 90			
1832.....	16,516,388 77			
1833.....	22,713,355 11	66,323,745 11	16,580,936 28	Gen. Jackson

Average expenditure for the whole twelve years, $13,010,903.25.

Now, sir, let us see what money has been received into the Treasury since the 1st day of January, 1835, and then we may form some conjecture whether there is any there now; or at all events, we and the people may know whether this and the last administration have been economical in the use of the people's money, or whether they have squandered it with a profusion and extravagance never before equalled.

There was received into the Treasury, during the years 1835 and 1836, together with what there was in the Treasury on the 1st day of January, 1835..... $ 88,461,942 04
And during the first half of the present year 13,687,182 00
And if we estimate the receipts of the present quarter, ending on the 1st of October, at one-third of those for the first half of the present year, they are..... 4,562,394 00

Making a total amount of..... $106,711,518 04

Deduct from this the amount deposited with the United States, being the first three instalments 28,101,644 99

And it leaves no less than..... $ 78,609,863 05

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applicable to the ordinary expenses of Government, which has been poured into your Treasury within two years and three-fourths, averaging nearly $29,000,000 per year. Where is it, sir? The empty vaults of your Treasury echo, Where? I will tell you, sir, where it is. It has been wasted, squandered, and profusely lavished upon party favorites and parasites; and the people, from whose hard earnings you collected it, are now to be cheated out of it. Sir, the people will look into this matter. They will scrutinize this unparalleled profligacy of their public servants; and in making up their minds, they will not forget that all these extravagancies have been the bitter fruits of an administration in both Houses of Congress, and constantly uttering the hypocritical cry of "retrenchment and reform"!

Sir, there is one more proof that the money is in the Treasury, notwithstanding we are told that it is not, by the Chairman of the Committee of Ways and Means [Mr. Cambreleng], which I hope will be entirerly satisfactory to him and the Administration members of this committee; and that is, the statement of the President himself in his message. I will read it:

"There are now in the Treasury $9,367,214 directed by the act of 23d of June, 1836, to be deposited with the States in October next."

These, sir, are the words of the Message itself. To those who credit the veracity of their author, I hope they will be satisfactory. They are too explicit to admit of doubt or to require comment.

But, sir, my chief objection is this, and all the other measures recommended in the President's message, and proposed by the Committee of Ways and Means, is, that they hold out no prospect of permanent relief to the country. True, sir, the issuing of Treasury notes, on which you are to borrow money to replenish your exhausted Treasury, may afford a little temporary relief to those who owe the Government, and indirectly to the community; and the extension of time for the payment of the merchant's bonds to

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the Government will afford present relief to that class of citizens, or enable them "to put off the evil day" a little longer. But these are mere expedients, temporary and partial in their operation, and do not reach the seat of the disease that now afflicts the body politic. That disease, sir, had its origin in the derangement of our currency; and that derangement, in my opinion, was produced by the unwise conduct of this Government. I will not charge this Administration with a design to bring all these evils upon us. But I do charge them with an unholy ambition that grasped at power, regardless of the means by which it was attained; with a war upon the United States Bank, for political effect; and with enlisting and arraying against that institution all the feelings of rivalry and avarice on the part of the State banks, and of jealousy and distrust on the part of the people; and that a consequence of this war has been, all the evils of over-banking, over-trading, and ruinous and gambling speculation described in the Message, and the final depreciation and derangement of the currency, and the bankruptcy of the Government and people.

Let me not be misunderstood in what I am about to say. I have never been a particular friend of the United States Bank. I regard it as I do all other banks, as a necessary evil. I have never been its advocate, and am not now. It has gone down to "the tomb of the Capulets"; let it rest in peace. And I should have great doubts of the expediency of establishing a new United States Bank at this time, for the relief of the community. I fear that an attempt to put it in operation would rather aggravate than mitigate our sufferings. But on this point it is not necessary to express an opinion. I only allude to it, to prevent any improper inference, and that the committee may understand that all I have to say of the United States Bank is as a matter of history, and not of opinion as to its expediency or usefulness at this time. Times have essentially changed; and what might have been proper or useful then, may be wholly improper and useless now. Then, such a bank, with the confidence of the Government and people, might be useful in regulating the cur-

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rency. Since the war upon that institution, banks have multiplied beyond all former example. To add another at this time, and collect together the requisite specie to put it in operation, would, I fear, add greatly to our present embarrassment. People must learn from actual suffering that it is much more easy to tear down than to build up, to destroy than to create, and to derange than to restore. Ignorance and folly may accomplish the one; wisdom, prudence, and time can alone perform the other.

But, sir, I said I was opposed to these measures because they promised no permanent relief to the country. Why has the President, after witnessing the suffering of this community—after calling us together, as every one supposed, to propose some measure of relief—turned thus coldly away, without recommending anything to restore a uniform currency? Are the prayers, and tears, and groans, of a whole nation, suffering all the horrors of impending bankruptcy, not worthy of his consideration? Are members of the Administration prepared to return and look their constituents in the face, without making one effort for the relief of the country? We of the minority can do nothing. We are powerless. But you have all power. Then why not exert it to bring back the days of prosperity and sunshine that existed before this fatal war upon the currency, and commerce, and business of our country?

Sir, do the President, and those who support him, expect to find a justification for the apathy they manifest towards a suffering country, by charging all our distresses to the follies and extravagance of the community, and by carefully concealing everything which shows that those very follies and that very extravagance, which are held up for universal reprobation in the President's message, had their origin in the wickedness or folly of this Government? So it would seem. The President, after adverting to the distresses and embarrassments of the country in his Message, says:

"The history of trade in the United States for the last three or four years affords the most convincing evidence that our present

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condition is chiefly to be attributed to over-action in all the departments of business; an over-action deriving, perhaps, its first impulses from antecedent causes, but stimulated to its destructive consequences by excessive issues of bank paper, and by other facilities for the acquisition and enlargement of credit."

Sir, I agree with him, that excessive issues of bank paper have stimulated to destructive consequences. Of this fact there can be no doubt; and it is a precious confession from the head of that party that, for years past, have wielded the legislative power of this nation, and also the legislative power of most of the States in this Union, and constantly charged their opponents with being the bank party. I say, sir, this is a precious confession from the head of that party, that banks have been multiplied by this no-bank party, until their "excessive issues have produced destructive consequences." If it were decorous to the Chief Magistrate, I would ask if ever such shameless hypocrisy, when exposed, was met by such unblushing impudence?

But, sir, what are those "antecedent causes" that gave the "first impulse to this over-action"? Why are they concealed from the people? They are the true causes of all our suffering; and, sir, let me tell you, they had their origin in the war against the United States Bank. That was to be put down; and, to effect that object, and reward the pure patriotism of this no-bank party, new State banks were chartered. Let us look at facts. In 1830, all the banks in the United States were only 320. They have been increased in seven years to 677, and 146 branches, making in all 823 banks! The capital of all the banks (January 1, 1830) was $145,192,268. It has been increased in seven years to $378,719,168. Add to this the $40,000,000 of surplus revenue that has been bestowed on the pet banks since 1833, when the deposits were removed from the United States Bank, and you have the antecedent causes that stimulated to that over-action, and those destructive consequences, mentioned by the President. And all these, sir, are chiefly chargeable to the dominant party in these United States. They removed these deposits without law, and gave them

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to the pet banks. They invited these pet banks to extend their accommodations. They have created nearly three times as much banking capital in the United States, since General Jackson came into office, as all that existed before. Yes, sir, as strange as it may appear, this no-bank party, that has for seven years cried out against the bank monster, until the people trembled for their liberties, have, within the same time, created nearly three times as much bank capital as all that existed in the United States before. Was there ever such unparalleled hypocrisy?

But, sir, this war against the United States Bank, got up for political effect, regardless of the peace of society or the interests of the country, was made to unite the extremes of society. The more intelligent of the middle class never engaged in it; or were drawn into it, from political associations, with reluctance. It was really a war of the State banks against the United States Bank, got up by artful politicians to elevate Mr. Van Buren to the Presidency. They tempted the cupidity of the thousand officers and stockholders interested in these banks, with the bribe of the public deposits and the prospect of destroying a hated rival that kept them in check, and loaned money at six per cent. It was a Shylock feeling of avarice and revenge. On the other hand, all the affiliated presses connected with these State banks cried out against the monster, until the more ignorant part of the community thought their liberties in danger, and joined the strong bank party against the weaker, to put down the United States Bank. Having effected this, and brought the country to the verge of ruin, and overwhelmed these State banks with infamy and disgrace, is it strange that the same unprincipled course should be pursued against them, that has been pursued against the United States Bank? It is what they had a right to expect. It is but "commending the poisoned chalice to their own lips." We may pity their folly; we may condemn the heartless perfidy that first seduced them from their duty, and prostituted them to the vilest purposes of partisan warfare, until their infamy has rendered them useless, and now casts them aside; but we

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cannot deny that the retributive hand of justice is seen in their sufferings.

Sir, in corroboration of what I have said about this being a war of the State banks against the United States Bank, got up by designing politicians, I will mention a few facts connected with a little secret history on this subject in my own State.

It is known, sir, that we have a peculiar system of banking in the State of New York, called the safety-fund system. It had its origin with Mr. Van Buren, when Governor of that State in 1829. Although he did not claim the merit of an original inventor, yet he adopted it as his own, and recommended it to the Legislature. This system, sir, establishing a community of interest between banks, and being under the immediate supervision of three bank commissioners, is admirably well calculated for use as a political engine. It was no sooner put into operation, than it was brought to bear upon the Legislature of that State. In 1830 or 1831, while I was honored with a seat in the Legislature of that State, resolutions were introduced in that body against a recharter of the United States Bank. These resolutions originated with the banks in that State. Not one solitary petition from the people on that subject had been presented to the Legislature. The bank then had three branches in that State: one at New York, one at Utica, and one at Buffalo; and the people were contented with the currency which they furnished. No murmur, no complaint, was heard from the people. But, sir, day by day, as these resolutions were under discussion in that Legislature, the birds of ill-omen, that deal in bank stock, hovered round that hall, and watched the progress of this unholy proceeding with an intense anxiety. But no farmers, no mechanics, were there. They had not been consulted; they took no interest in the proceeding. They had no share at that time in this conspiracy of the State banks against their interest. They were delving at their labor, and slumbering in security, while these banks were forging the chains with which they have since bound them. Yes, sir, I was informed, and I believe it, that nightly,

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during the discussion of those resolutions, their supporters in the Legislature met in conclave, in one of the principal banks in that city, to devise ways and means to carry them through. They were carried. These banks, with the aid of the party screws, proved too powerful for the independence and honesty of that body; and the result was proclaimed as the sense of the people of that great State against the United States Bank. This State bank, sir, had its reward—it shared the spoils.

But, sir, my colleague [Mr. Foster] has taken occasion to eulogize this safety-fund system. He says it works like a charm. I shall not deny, sir, that it has some good qualities; but I am far from thinking it so charming as my honorable colleague. I doubt not it appears so to many who share in its golden harvests, and enjoy its exclusive privileges; but to the great majority of the people, who, like myself, deal not in bank stock, but occasionally see or feel the tyranny of these little monsters, the working of this political engine is anything but charming. Sir, I conceive it had its origin in the foul embraces of political ambition, and cunning, heartless avarice. "It was conceived in sin, and brought forth in iniquity." It has spread its baleful influence over that State, corrupting the fountains of power, and demoralizing the whole community, by the manner in which its privileges have been granted and its stocks distributed. Banks have been granted, and the stocks distributed, to party favorites, as a reward for party services. They have been the mercenary bribe offered to the community to sap the foundations of moral honesty and political integrity.

But I will not enter into the disgusting details. As to those who wish to see the workings of this charming system of my colleague, I will refer them to an examination of our State Legislature last winter, and the proceedings of that body upon the report of their committee upon a single bank. I believe the very day on which the report was made, it showed such abominable corruption and abuses, that a bill was introduced to repeal its charter, and, within one or two days, passed through all the forms of legislation in the popu-

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lar branch without a dissenting vote; and also passed the Senate with but three or four votes against it.

Does my honorable colleague think that a system which produces banks like this, works like a charm? I perceive that this incestuous connection between the politics and banks of that State has been festering and corrupting until it is about to fall asunder from its own rottenness. I, for one, have no tears to shed at the dissolution. I only regret that many of these banks, since they were chartered, have passed into the hands of honest and honorable men. I fear that the odium which rests upon this corrupt system, and which in my opinion, is nowise necessarily connected with banking, will sink the whole, without discrimination. The vengeance of an insulted and oppressed community is terrible and overwhelming in its course. It stops not always to discriminate between the just and the unjust, between the proper use and the improper abuse of a particular system; but, in the wild madness of popular fury, they hurl the whole to destruction. I warn them to stay their desolating hands. All sudden changes are dangerous. Let us not destroy, but purify this odious system. We cannot live without banks and banking. Credit in some shape is indispensable to our prosperity. Were we reduced to a specie circulation, as now proposed by the President, property would not be worth twenty-five per cent. what it now is, and would soon be wholly absorbed by the wealthy capitalists of our country. The debtor part of the community would be utterly ruined. Then let us purge this vile system of its corruptions and abuses, and strip it of its odious monopoly, and open the privilege of banking to all who comply with such prescribed rules of the Legislature as secure the bill-holder and public generally from fraud and imposition. I hope, sir, to live to see the day when this shall be done, and the moral pestilence of political banks and banking shall be unknown.

[Mr. Fillmore here went into an examination to show that the pretence in the Message, that there had been the same over-banking and over-trading in England as in this

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country, was not true. He exhibited tables that show the following results:

October 1, 1833, circulation of the Bank of England.....	$19,800,000
December 27, 1836, circulation of the Bank of England...	17,300,000
December 28, 1833, circulation of all the banks in England and Wales	27,621,104
June 25, 1836, circulation of all the banks in England and Wales	29,386,196

Mr. Fillmore then spoke of the hostility of the Administration to the deposit law, and its attempts, by means of the specie circular and transfer drafts, to oppress the banks, and, through them, the people, and render the law odious; and that the last effort was to declare the Treasury bankrupt, and withhold the funds.

He then exhibited a statement showing that the banks in the State of New York had as follows:

	In circulation	Specie	Discounts
January 1, 1837.....	$24,198,000	$6,557,020	$79,313,188
September 1, 1837.....	13,740,318	2,747,642	59,367,815
Reduced in 8 months.....	$10,457,682	$3,809,378	$19,945,373

September 1, 1837, United States deposits.....	$ 728,571
September 1, 1837, individual deposits.....	15,134,968

Now, sir, it appears from these facts that the banks in the State of New York, in eight months, have reduced their discounts one-fourth; their circulation nearly one-half; and their specie almost two-thirds. The people of that State are literally gasping for breath, like an animal under the exhausted receiver of the experimentalist. And if you pass this bill, you authorize the United States to take all but $2,000,000 of the specie now remaining in that great State, and lock it up in your vaults of this new sub-treasury system. And you leave the bill-holders and individual depositors of that State with upwards of $25,000,000 due them

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from the banks, and only $2,000,000 of specie to pay them with.

Sir, however solvent these banks may be, it is impossible that they should ever resume specie payments under circumstances like these. This sub-treasury scheme, which I regard as a germ of a Treasury bank, will draw the specie from our banks faster than they can collect it. The Post Office now acts as an absorbent of all the small change in the country. Where the edict of the officer at the head of that Department is faithfully executed, all the specie is gathered into the Post Office, paid out to the mail contractors, and by them sold to the brokers, by whom it is sold as a commodity, and shipped out of the country. In this way it daily grows more and more scarce, and has almost ceased to be used as a circulating medium among the people. This sub-treasury system is calculated to carry out this infamous distinction between the Government and the people—to absorb all the specie for the use of the Government and its favorites, and leave the people to irredeemable bank paper, and this bill, with the bankrupt law recommended by the President, is calculated to take, "peaceably if they can, but forcibly if they must," all the specie from the banks, and hoard it up for the use of the office-holders under this Government. Sir, there are evils between which a man is not bound to choose; he may reject both. And I regard this sub-treasury system, and the union of the Government with the State banks, as evils of this character. I will not choose; I am opposed to both.

But have my colleagues, who profess to be the guardians of these State banks, who call themselves "conservatives," duly considered the awful precipice upon which we stand in the State of New York? Are you willing, instead of adding $1,300,000 to our circulation in this time of distress, to pass this bill, and thereby not only withhold that, but take from us the $700,000 now there in specie? Recollect that all our safety-fund banks are incorporated under a law that declares that they shall be deemed insolvent, and their charters dissolved by the Court of Chancery, if they neglect, for

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ninety days after demand, to redeem any evidence of debt issued by them in specie. The effect of that law has been suspended for one year, and for one year only, from the 11th day of May last. It will then expire by its own limitation, and can then only be renewed by the concurrence of each branch of the Legislature. Is there not much reason to doubt whether this law will be extended? It was passed in a moment of alarm, when the cry of bankruptcy and ruin broke upon the astonished ear of the Legislature like a peal of thunder from a cloudless sky. But they and the people have since had time to reflect. This is a state of things that cannot be endured, and most of the measures here recommended are calculated to aggravate it in a tenfold degree. Men become desperate, and already the deep sea of popular commotion begins to heave its rising billows. I confess I watch its motions with solicitude and alarm. And I have been surprised to find, in the papers of the day, a letter from General Jackson, the former patron and eulogist of these pet banks, speaking of them in the following language:

"The history of the world has never recorded such base treachery and perfidy as has been committed by the deposit banks against the Government, and purely with the view of gratifying Biddle and the Barings, and, by the suspension of specie payments, degrade, embarrass, and ruin, if they could, their own country, for the selfish views of making large profits by throwing out millions of depreciated paper upon the people, selling their specie at large premiums, and buying up their own paper at discounts of from 25 to 30 per cent., and now looking forward to be indulged in these speculations for years to come, before they resume specie payments."

But, sir, although I have been surprised to see the foregoing charge, I must confess that I have been more surprised to see it published to the world week after week, and meet with no response or denial from any man on this floor or elsewhere. Are gentlemen conservatives aware of the effect of such a publication upon the popular mind? Let me tell them it bears upon its tainted breath, if false, a charge too foul for honest and honorable men to submit to it in silence. It distils into the ignorant and credulous mind a

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poison more dangerous to the peace of society than foreign invasion or individual treason. And is there no honorable man connected with these institutions, or who stands upon this floor as their guardian, that will deny the foul charge of treachery and perfidy thus made against them? Why this unaccountable silence under a charge so infamous and revolting? Is it the deep contrition of guilt and merited condemnation that has sealed your mouths? or are you transfixed with superstitious horror, and struck with silent awe at the Greatest and Best, who uttered the anathema? Then prostrate yourselves in the dust, and let this mighty Juggernaut roll over you without a groan or a tear. But if there be one independent and honorable man—as I trust in God there are many—let him stand forth and deny this base charge. Let this little band of conservatives upon this floor, if they are fighting for principles, and not for spoils, raise the banner of independence, and meet their destiny like men; otherwise, they must soon sink into utter oblivion and merited contempt. Already a black cloud hangs impending over your heads, and its sulphurous fires, lighted up by the midnight torch of locofocoism, will soon burst upon you, more terrible than that storm of fire and brimstone that overwhelmed the devoted cities of Sodom and Gomorrah; and, without independence and firmness, you will go down to your political graves

"Unwept, unhonored, and unsung."

ON THE TREASURY NOTE BILL.

October 4, 1837, the House having under consideration a bill authorizing an issue of Treasury notes, an amendment was proposed declaring, in substance, that the banks of merchants indebted to the Government might settle their respective balances in Treasury notes before they fell due. Mr. Fillmore supported the amendment, contending that it was the right of the creditor to set off Treasury notes, if he could get them, against his debt to the Government. This

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would hold out a strong inducement to all creditors of Government to take these notes, and they would thus be sooner brought into circulation. Mr. Fillmore later sought, unsuccessfully, to amend the bill by striking out the clause which provides a penalty for a man having in his possession paper similar to that used for the Treasury notes, with intent to counterfeit.

October 17th his vote is recorded against the bill "to authorize the issuing of Treasury notes," etc.

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UPPER CANADA REBELLION

The disturbances caused by William Lyon Mackenzie and his followers on the Niagara frontier in 1837-8 naturally compelled the attention of Congress, and Mr. Fillmore, as a member from the disturbed district, was foremost in urging protective measures. On January 12, 1838, he offered the following amendment to a pending resolution:

> And that the President be requested to communicate to this House any additional information in his possession, of acts endangering the amicable relations between this government and that of Great Britain either by the subjects of Great Britain, or by our own citizens, on the Canadian frontier, and what measures have been adopted by the Executive to preserve our neutrality with said kingdom.

Mr. Fillmore in support of this amendment, remarked that the House were probably aware that there had been, and now was, a great excitement existing on the Niagara frontier, and that there had been movements in Buffalo in reference to the revolution now raging in Canada. They were also probably aware that an armament had been fitted out, mostly by American citizens, which had made a stand on Navy Island, which is within British territory, in Niagara river, 20 miles from Buffalo, and two or three miles above the Falls; the lowest point at which a crossing can be effected, safely, from the main shore. The line between the two countries passes between Navy Island, which is well fortified, and Grand Island, which is in the territory of the United States.

Mr. Fillmore understood from letters and papers of very late dates, then before him, that there were upon Navy

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Island, some 1,500 men, who are undergoing a course of military discipline. He had letters to the 30th ult. advising him that a small steamboat called the Caroline had been taken down the river from Buffalo, to run as a ferryboat from the American shore to Navy Island. It seemed that on the 29th an armed force came from the British side, in Canada, and attacked this steamboat, which had been running through the day, and which was then lying within the United States lines, killed some and wounded others, then setting the boat on fire, and sending it over the falls, and, as some accounts alleged, with the wounded still remaining on board. And here Mr. Fillmore read extracts from the letters, which he averred were from the very highest and most responsible sources, confirming his statements as to these incidents. Having done which, he observed that his object now was to ascertain if the Executive had any information on the subject.[1]

Mr. Fillmore on March 9th presented a memorial, adopted at a meeting in Buffalo, on the 12th of February, in relation to the burning of the Caroline, and the murder of citizens on board. He said:

What the British Government will say to this, remains yet to be heard. Charity and the friendly relations existing between this Government and that, induce me to hope that the act will be disavowed by that Government, and that satisfaction, so far as it can be made, will be immediately proffered.

It is proper that I should state that the deep and universal feeling of indignation which this outrage has called forth in that community is entirely distinct from, and independent

1. February 13, 1841, Mr. Pickens, from the Committee on Foreign Affairs, made an elaborate report on the burning of the Caroline and the case of McLeod. It is to be found in the *Congressional Globe*, February 19, 1841; also reprinted. In this report, as in Mr. Fillmore's speech, and most other contemporary utterances on the subject, there is more or less of misstatement. It has never been shown that any one except Amos Durfee was killed in the seizure of the Caroline. The number of Mackenzie's followers that gathered in Navy Island is also usually much overstated.

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of, that excitement which has been so universally condemned, as an improper interference in the Canadian rebellion.

The memorialists pray that our Navy and Army may be placed on a proper footing, and that our fortifications may be placed in a proper state of defence, and particularly that the city of Buffalo and the Niagara frontier, now in a perfectly defenceless state, may be immediately fortified, and that the Government demand and obtain redress for this outrage.

Mr. Fillmore moved that so much of the memorial as relates to the defence of the country, be referred to the Committee on Military Affairs; and so much as relates to the violation of our national honor, and redress therefor, to the Committee on Foreign Affairs. It was finally referred to the Committee on Foreign Affairs, without a division.

On motion of Mr. Fillmore June 11th:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of authorizing the immediate surveys and estimates for suitable fortifications for the protection and defence of the Northern frontier.

ON THE DEATH OF HON. WILLIAM PATTERSON.

In the House, December 5, 1838, Mr. Fillmore delivered the following eulogy in memory of a colleague:

Mr. Speaker, the painful and melancholy duty has devolved upon me of announcing to this House the death of my lamented friend and colleague, William Patterson. He died at his residence, in Warsaw, New York, on the 14th day of August last.

The last time I saw him was in this Hall, at the close of the late session. He was then in the prime of life, and apparently in the full enjoyment of health. Blessed by his Creator with a constitution that never felt disease, environed

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by a temperance and regularity of habit that ordinarily bid defiance to its approach, no man left this House with fairer prospects of returning to it again. But the untiring assiduity with which he devoted himself to the discharge of his duties here during that long and arduous session, doubtless sowed the seeds of that disease which so soon terminated his earthly existence. Beneath the external glow of health that then mantled his cheek was insidiously preying the canker worm of death. He was barely enabled to return to the bosom of his family when his strength gave way, his reason wandered, and, in a few short days, all that was mortal of William Patterson "slept beneath the clods of the valley." Would that this melancholy tale ended here. But it does not. The partner of his earthly joys and sorrows, worn down with the watchings and anxieties of his last illness, with a constitution too feeble to support the accumulated distress of a sensitive mind, sunk beneath the weight of her sorrows, and, in a few days after his interment, she, too, "slept the sleep of death" by his side. What an appalling bereavement to his infant children! They are now orphans in this wide world, exhibiting in their changed condition an awful reality of the uncertainty of life and of all earthly enjoyments.

But, sir, though gone, he has left behind him a name and reputation dear to them that knew him. Modest and unassuming in his character, kind and generous in his disposition, honest and inflexible in his purpose, to know him was to respect and esteem him. His heart was without guile; and, though he made no professions, yet he habitually practiced all the virtues that adorn the life of a most exemplary Christian.

He made no pretensions to literary acquirements or statesmanlike qualifications, and his native modesty naturally induced him to seek the quiet retirement of private life. But, blessed with good sense and a strong and retentive memory, he found leisure, amid the daily toils of a laborious occupation, to cultivate a taste for reading, which stored his mind with useful facts. At the unsolicited request of his fellow-

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citizens, he reluctantly yielded his assent to occupy a seat on this floor. How he discharged that important trust, during the short time he participated in our deliberations, is known to you all. During a protracted and uncommonly arduous session, when many fainted by the wayside, he was always at his post. During a time of uncommon excitement and political acrimony, he was firm in the support of what he deemed to be right, yet tolerant to the opinions of others with whom he differed. In one word, he was constant and patient in the discharge of all his official duties, and untiring in the more humble but useful labors of his station. Naturally frank, honest, and confiding, he drew around him a circle of friends, and by the unadulterated goodness of his heart, disarmed even political opposition of its rancor. Finally, in all the relations of life, as a father, husband, brother, friend, citizen and legislator, he was blameless. That no testimony of respect for his many virtues may be wanting, I offer for the adoption of the House the resolutions which I send to the Chair:

Resolved, unanimously, That this House has received with deep sensibility the annunciation of the death of Hon. William Patterson, a Representative from the State of New York.

Resolved, unanimously, That the members of this House will testify their respect for the memory of the deceased by wearing crape on the left arm for thirty days.

LAKE NAVIGATION INTERESTS.

December 10, 1838, on motion of Mr. Fillmore, it was

Ordered, That the drawings illustrative of the condition of certain improvements in navigation on Lake Erie, which accompany the annual report from the Topographical Bureau, and forming a part of the documents with the President's message, be printed.

January 14, 1839, on motion of Mr. Fillmore, it was

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of authorizing accurate surveys and charts to be made of such parts of Lakes Ontario, Huron, Erie,

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Michigan and Superior, and the rivers and straits connecting the same, and the bays and harbors thereof, as lie within the boundaries of the United States.

THE CAROLINE OUTRAGE.

January 28, 1839, on motion of Mr. Fillmore, it was

Resolved, That the President be requested to communicate to this House, if not, in his opinion, incompatible with the public interest, what demand has been made upon the British Government, for satisfaction for the outrage committed under its authority, in burning the steamboat Caroline, and murdering our unarmed citizens on board; and what reply said Government has made to such demand; and all the correspondence on the subject of said outrage, between this Government and that, or the officers or agents of either, or the officers or agents of this Government and the President, or any of its Departments, which have not heretofore been communicated to this House.

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NORTHERN FRONTIER PROTECTION

On March 1, 1839, the House having before it the bill giving the President additional power for the defence of the United States, etc., involving the Maine boundary question, Mr. Fillmore spoke at length.

It was with extreme reluctance, he said, that in his feeble state of health, he added a word to protract this debate; nor should he have done so, but that he felt that his own constituents might have as deep an interest in the results of this bill as the inhabitants of any portion of the United States. This bill, if he could credit what had been said by the gentleman from Maine [Mr. Evans], or read by the gentleman from Maryland [Mr. Howard], was neither more nor less than a contingent declaration of war with Great Britain. In such an event, his constituents had a deep and obvious interest. It was true that, on the face of the bill, and in the wording of the first, second, and the third sections, it seemed to be contemplated that our collision with that power would be confined chiefly to the frontier of Maine; but such would not turn out to be the fact. If resort was once had to arms, the matter would not end in a brief skirmish in Maine. That little tract of territory, cold and barren as the Siberian desert, was of but small value but for the timber it contained. That would not be the battlefield on which this contest must be settled; the scene of conflict would extend along the entire Northern frontier of the Union, and its chief seat would be upon the great northern lakes.

If it were true, as the gentleman affirmed, that even the President himself did not fully appreciate the urgency of the crisis, what must be the consequences, upon that crisis, of passing a bill like this? What did the bill contemplate?

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What was the very first step it proposed? It went at once to commit us to war *de facto*. The first section went on the supposition that Great Britain would enforce the claim she had set up by a resort to arms. Was there any reason to suppose that this would be done? The gentleman from Maine had told the House that it would be attempted at once, and that a collision had already taken place.

[Mr. Evans explained, stating his view that the bill if passed, would prevent, instead of produce, hostilities.]

The gentleman then concedes that it is probable a collision may have already taken place. We are, then, acting on a contingency, with little time to deliberate, and none to retract any step we may take. Suppose there shall be a collision before the result of our deliberations is known. Congress would be defunct, and what will be the duty of our President? To wait till he can lay propositions before the Government of Great Britain? To pause and negotiate, and then go to war? No. The nation is irretrievably committed, and it will be his duty at once to expel the invading force. No alternative is left him. There is no chance or space for repentance or advice. We have assumed that the act[1] of Sir

1. Sir John Harvey, Lieutenant-Governor of New Brunswick, claimed British jurisdiction for territory on the Aroostook which was claimed by Maine. Mr. Fox, the British Minister, backed him up in the claim, maintained that the disputed territory had been placed under exclusive British authority, and demanded the withdrawal of American troops therefrom. President Van Buren, Feb. 26, 1839, made the matter the occasion of a Message to Congress, in which, and in accompanying documents, it was set forth that a "numerous band of lawless and desperate men, chiefly from the adjoining British Provinces," had invaded the disputed territory and were cutting the timber. The Governor of Maine sent the land agent of the State, with a body of men, against the trespassers. These latter captured the agent, and two other citizens of Maine, and carried them prisoners to Fredericton; whereupon the Governor dispatched another and stronger armed posse, to disperse or arrest the offenders. Certain British subjects were seized. The resultant correspondence, with its demands and counter-demands, became very belligerent. Military movements began on both sides. Governor John Fairchild of Maine soon had a force of 100 men on the frontier and issued a draft for 1,000. At this point, before there was actual warfare, a friendly agreement was arrived at by Secretary of State John Forsyth and Mr. Fox, the British Minister, by which the border troubles were allayed, and the disputed claim was left for settlement to calm deliberations in the future. In the House of Representatives, as was to be expected, the incident developed much oratory of a type not unfamiliar, even in 1839. Mr. Fillmore's share in the discussion was chiefly, as appears from his remarks herewith, to seize the occasion that he might emphasize the need of more protection on the Northern frontier, and especially on the Lakes.

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John Harvey is the act of his Government, and the President is at once to proceed to hostilities. I am not prepared to say that even this may not be necessary. From the little examination I have given the subject, I have no doubt whatever that Maine is in the right. The only question is as to the manner and the time in which her right is to be enforced.

In this question the whole country is interested and especially the people in my own district. It appears to me that the Committee on Foreign Affairs have directed their attention exclusively to the interests and rights of Maine, and have, to a great extent, overlooked the great interests of other portions of the Union in this matter. Ought they to have forgotten the defenceless position in which the whole Northern frontier would be placed in case of war?

I am surprised to find not only solitary provision in this bill for the defence of a lake frontier of fifteen hundred miles: with not a single fort upon the whole line, nor a single armed vessel owned by the Government. Is it right thus to make a contingent declaration of war, and make no provisions whatever for the defence of that frontier, at the same time that ample provision is made for the sea coast? It may be said that we entered into a treaty with Great Britain in 1817 or 1818 limiting the number of armed vessels that should be maintained by either Power on those lakes. I admit it, but Great Britain has not invariably felt herself bound by that conviction for she has at least, I am informed, an armed steam vessel in her employ on Lake Ontario, two or three on the upper lakes, and one on Lake Champlain, by which, during the season of navigation, every lake town from Buffalo to Detroit may be utterly destroyed in less than one week, while we have nothing prepared to resist. I have been struck very forcibly with the singular, and to me unaccountable, omission in this bill to make any provision for a case of such imperious necessity. I believe we have not one piece of ordnance on the whole frontier that could be pointed against an invading foe. I beg pardon of the House for asserting that we are wholly defenceless.

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I have just been told by the honorable gentleman from Michigan, who sits near me, that the Government, in its magnanimity, has given to the State of Michigan one nine-pounder. All I ask of the House is that if they deem it necessary to the national honor to make a contingent declaration of war, they will insert in this bill some provision for the defence of the Northern frontier that shall at least put us on a level with the Atlantic cities. We ask no more. I know there is not time to erect forts; but I ask while the President of the United States is authorized in this bill to equip and employ the whole naval force of the United States for the seacoast, will not Congress authorize him, at the same time, to purchase, arm and equip the necessary number of steamboats for the defence of our Northern frontier? Surely it is the duty of the House to do so. Will they apply a torch which must set our whole Northern frontier in a flame, and make no provision for our defence?

It is true we have a bill authorizing the erection of forts along the boundary line of Maine, and another for repairing a few of the dilapidated works on Lake Ontario; but from the report of the War Department, after sleeping a Rip Van Winkle sleep of thirty of forty years, it seems they have at length waked up to some apprehension of our exposed condition ,and they now propose to commence at Fort Niagara a fortification now comparatively useless, and to proceed thence eastwardly, as if there were nothing west of that point worth defending. I shall be pardoned for saying that there are more people west of a meridian line drawn through Ontario, inhabiting states which border upon the lakes, than existed within the whole limits of the United States at the time of the Revolution; but it seems that war is to be declared, and all this portion of the Union is to be abandoned to its fate. Why this odious distinction?

[In reply to an interruption by Mr. Howard, chairman of the Committee on Foreign Relations, Mr. Fillmore read the 3d section, as follows:

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"SEC. 3. And be it further enacted, that in the event of either of the contingencies provided in the first section of this act, the President of the United States shall be authorized to complete the public armed vessels now authorized by law, and to equip, man, and employ, in actual service, all the naval force of the United States."

Mr. Fillmore continued:]

The honorable chairman of the committee says that the committee understood that the Northern frontier might be defended in one or two ways: the President might fit out the vessels of the navy and employ them in the defence of the lakes. Now, there is one objection to this: those vessels may find it very difficult to ascend the Niagara Falls. It is said that a certain Secretary of War once directed vessels to be built on Lake Ontario which were to be used on Lake Erie, entirely forgetting that the Falls interposed. It certainly will not answer to fit out vessels on the Atlantic which are to be used on the lakes. The bill only allows the President to complete vessels already commenced. It is true that we had some vessels of war on Lake Erie; part of them built by ourselves, and another portion consisting of those taken from the British by Perry; but, after the last war, these vessels were sold to private citizens, and they are now navigating the lakes as merchantmen. The Government has not a single vessel upon that lake moved either by sail or steam.

I will not enter further into this argument. I trust it is quite sufficient to apprise the House of the actual state of the case to induce them to make some provision for the defence of the Northern frontier. It surely is not necessary for me to refer to the exasperated state of feeling which has for some time prevailed on both sides of the line, or to remind the House that, with all the exertions of both Governments, it has been scarcely possible to preserve national peace. If war shall come upon us without previous preparation, we have nothing else to expect but to see our cities and our villages laid in ashes, and our citizens murdered. Let me not, however, be misunderstood. We are fully ready to

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stand by Maine in the maintainment of her just rights. We are willing to bare our bosoms to the shafts of war whenever the honor of the nation shall require it. All we ask is, that you shall make what provision is in your power for our defence. Put us upon the same footing as the Atlantic coast. The British Government has in the Canadas eighteen thousand troops, among the best that the world affords, and there is no preparation on our part for defence. True, we have the militia, prompt and brave, and ever ready to meet and repel an invading foe; but how are we to transport them to the spot where their services may be required? You have scarcely a vessel in Government employ, and you urge as an argument our treaty with England; but I pray you gentlemen to remember that, as soon as the two nations get to blows, all treaties are at end.

Mr. Fillmore asked in conclusion, that his amendment might be read, and it was read accordingly in the words following:

Add to the second section as follows:

"And to build, purchase, or charter, arm, equip and man, such vessels and steamboats on the Northern lakes and rivers whose waters communicate with the United States and Great Britain, as he shall deem necessary to protect the United States from invasion from that quarter."

[Agreed to.]

VIVA VOCE VOTING FOR HOUSE OFFICERS.

On December 21, 1839, the House engaged in discussion on a motion doing away with *viva voce* voting for officers. Mr. Fillmore, who had formerly debated this subject, again spoke in substance as follows:

He had not supposed [he said] that a constitutional lawyer [1] would have contended that the *viva voce* mode of

1. The allusion is to Caleb Cushing of Massachusetts, who had been a representative in Congress since 1835. An ardent Whig and a skillful debater, his relations with Mr. Fillmore appear to have been intimate. They had the common bond of profound knowledge of and admiration for the Constitution of the United States.

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voting was the constitutional mode. He thought, if any inferences could be drawn from the Constitution, they were decidedly in favor of the ballot. It was well known that the Liberal party in England had long contended for the vote by ballot; and why? Because the influence exercised by the aristocracy and the rich land-holders renders voting there a mere form, a mockery. And though these influences were not felt here, there was an unseen influence pervading this hall—the influence of party drill and party organization—that Moloch upon whose altar we are offering our first-born daily, and whose grasp was quite as strong and as merciless as the despotism of the old world. If in England men were deterred from voting in accordance with their sentiments, by the fear of their landlords, he would ask if, in this House, there were not men who were deterred from voting as their consciences dictated, by the fear of the denunciations of the party press? The writ of ejectment would be issued as promptly in one case of disobedience, as in the other. If the ballot were necessary in England and France to protect the voter from the vengeance of the aristocracy or the sovereign, it was just as necessary here; we had only to put the President in place of the Crown, and the necessity was the same. He thought the ballot was a good system; and it was the old and long-tried system, having been the only one in practice until within the last year.[1]

1. At the opening of the Third Session, Twenty-fifth Congress (December 3, 1838), the Speaker announced the death of Col. Walter S. Franklin, late Clerk to the House; it was the necessity of choosing his successor that precipitated the debate over *viva voce* voting. Mr. Dromgoole of Virginia offered a resolution amending the House rules of procedure so that "in all cases of election by the House the vote shall be taken *viva voce*." The remarks of Mr. Fillmore fairly show the issue that was raised. The new clerk, Hugh A. Garland, was elected *viva voce*,—on the first day of the session; but the principle was contended for more than a month until finally, January 17, 1839, the House adopted a resolution which established the ballot as the method to be employed in the choice of House officers, special committees, etc.

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NEW JERSEY ELECTION CASES

In March, 1840, Mr. Fillmore led the most strenuous contest in which he had up to that time engaged. The subject was the New Jersey contested election. He had previously (February 19th) spoken on the history of the case, and its consideration in committee. On March 6th, the whole day was spent on points of order raised for the purpose of preventing him from speaking. The Speaker finally gave Mr. Fillmore the floor, when an appeal was taken from his decision and the discussion continued on the following day, when a vote was taken and the decision of the Chair sustained.

March 5th Mr. Fillmore had offered the following resolution:

WHEREAS, The House did, by a motion adopted on the 28th day of February, 1840, among other things direct the Committee of Elections to report "forthwith" which five of the ten individuals claiming seats from the State of New Jersey received the greatest number of lawful votes from the whole State for Representatives in the Congress of the United States, at the election of 1838, in said State; and whereas this House had previously referred evidence to that committee, tending to show that the poll at South Amboy, in said State, at said election, was not held according to law, and that the numerous votes given at said election were unlawful, because the persons voting had no legal right to vote, and the parties to said contest are now absent from the city, with the consent, and under the authority of said committee, taking testimony in said case, for the purpose of ascertaining who received the greatest number of lawful votes at said election in said State; and whereas certain depositions alleged to have been taken by one of the parties to said

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contract, in pursuance of the directions of said committee, have been transmitted to the chairman of said committee in a sealed envelope, addressed to the Speaker of this House, tending to show, as is alleged, that the polls at South Amboy were not held according to law, and that unlawful votes were taken at said poll; and whereas said committee, in acting on said resolution of this House, refused to consider any portion of said evidence, but determined to report, and have reported, simply the number of votes adjudged to have been given to the several claimants by the Governor and Privy Council of New Jersey, together with those returned by the election officers of the townships of Millville, in Cumberland county, to the clerks of said counties respectively without inquiring whether said votes were lawful or not; therefore,

Resolved, That said report be recommitted to said committee, with instructions to inquire and report to this House, with all convenient despatch, which five of the ten claimants to the vacant seats in this House from said State received the greatest number of lawful votes at the last Congressional election in said State.

Mr. Fillmore spoke with much interrupting debate on the 6th, 7th, 10th and 12th of March. As his views on the subject are clearly presented in his letter to his constituents, it is deemed unnecessary here to give this debate *in extenso*. The following passages, however, have especial interest as showing the vigor with which Mr. Fillmore could maintain his position when he felt that the principles of right were at stake:

It is my misfortune to be connected with a subject on which a majority of this House seem determined to hear nothing, but are, apparently, ready to decide anything. I have scarcely alluded to the New Jersey election but that some rule of this House has been made to yield to the imperious necessity of closing my lips. Gentlemen seem determined to stifle all debate, to suppress all information. They may succeed; they have the numerical force that has been found sufficient heretofore and may be again; but I will never tamely and passively submit to yield a right which I hold in trust for others. The right of speech is guaranteed

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by the Constitution. It is the sacred and important right upon which all others depend. Deprive us of this and we are slaves to the veriest despotism that ever crushed a powerless minority. If this principle is to be established here, I should conceive it no loss to exchange my seat for one in the dark cells of the Spanish inquisition. All that we shall have left will not be worth contending for. It will soon be a disgrace to any man of honorable sentiments to have it known that he was ever a member of this body. Sir, I would as willingly be the slave of one master as of a thousand. I would as soon consent to hold my right of debate here as a mere tenant at sufferance to the arbitrary will of the gentleman from Pennsylvania [Mr. Petrikin], as to hold it at the will of a majority who follow his lead. I will never consent to hold it at the arbitrary will and pleasure of any man, or set of men. It is a constitutional right which I bring with me into this hall, equally inviolable in myself and those whom I represent, and I will never consent—no never—basely to betray it.

I beg gentlemen of the majority to pause, to reflect, before they establish this dangerous precedent. Its effect may be only to crush a weak and humble minority, but this is a changeable world and especially the political portion of it. A few years may find those who now exult in strength and lord it over this body, in a defenceless minority like myself. Let them beware lest these bloody treasons which they now teach us return to afflict themselves. I conjure them to pause before they inflict so deep a wound upon the Constitution of our common country.

I beg them to respect some rules, observe some order, even in the New Jersey case. It is not necessary to carry out the wishes of the majority to trample upon the Constitutional right of debate. The rules of the House well administered are sufficient in all conscience. The majority possesses all the power; the minority have nothing to protect them but the Constitution and the rules of the House; and if these are broken down then farewell to freedom, farewell to all that is dear to an American citizen! This hall becomes

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the temple of despotism, and you, Mr. Speaker, its high-priest.

ADDRESS TO THE COUNTRY ON THE NEW JERSEY CONTESTED ELECTION CASES.

March 7th Mr. Fillmore moved to reconsider the vote by which certain testimony had been taken. After the usual obstructive tactics by his opponents, Mr. Fillmore spoke at length on questions of order. He also undertook to recite the facts of the case, as they had developed before the committee. On calling for the reading of certain evidence, objection was raised; and although some depositions were read by the Clerk, March 10th, partisan tactics prevented Mr. Fillmore from getting his report relating to the proceedings of the Committee on Elections, before the House. In consequence, Mr. Fillmore printed the minority report of that committee, prefacing it with an address to "the whole country." Both the address and the report are signed by Millard Fillmore, Jno. M. Botts, George W. Crabb and Truman Smith. Although both were probably in large part if not wholly written by Mr. Fillmore, the address is deemed as sufficient presentation of the subject.[1]

We desire to call the attention of the whole country to the statement herewith exhibited, as a report prepared and presented to the House of Representatives, by the minority

1. These documents were printed in pamphlet form with the following title: "Address and suppressed report of the minority of the Committee on Elections on the New Jersey case. Presented to the House of Representatives, March 10, 1840, together with the remarks of Mr. Fillmore. "For every one that doeth evil hateth the light, neither cometh to the light, lest his deeds should be reproved.'" Washington: Printed at the Madisonian office, 1840; 8vo., pp. 16. The title of the minority report runs: 'The suppressed report of the minority of the Committee on Elections on the New Jersey case; presented to the House of Representatives of the Congress of the United States, March 10, 1840—and contrary to all precedent, excluded from the House (its reception and reading being refused, with the previous question pending, and all debate shut off), by a party vote in the negative."

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of the Committee on Elections, to which was referred the contested election from the State of New Jersey; and we especially desire to call their attention to the novel, extraordinary and appalling circumstances, which have driven us to the necessity of this appealing to our fellow citizens, from one end of the Union to the other; and we do it with the confident assurance that they will give to the subject that careful and unprejudiced consideration which its importance demands, and their own future safety and interests, imperiously require; that they will unite with us in the belief, which in the honest sincerity of our hearts we entertain, that the Government under which we live, must soon become worse than a Turkish despotism, unless the People, in the majesty of their strength, shall arise and rebuke the perpetrators of the outrage which has been committed on the Constitution of the United States, the laws of one of the sovereign States of this Union, and the rights of the great body of the People themselves.

We will not enter into a minute detail of the means by which five of the Representatives of the State of New Jersey, furnishing the highest evidence known to the laws of that State, that they had been regularly and constitutionally elected, were driven from their seats, previous to any investigation whatever, and denied all right to participate in the organization and proceedings of the House, and much less will we undertake here, to pronounce upon the motives which led to this unparalleled proceeding.

We wish to take up this subject at another point, and let the country know what are the circumstances under which five other gentlemen from the State of New Jersey have been voted into seats in the House of Representatives, who have presented *no return, no credential, no commission:* and this too when the members holding the commissions of the Governor of that State, under the Seal of that Commonwealth, were at home by leave of the committee, taking depositions to prove—what they had at all times averred they could prove—that they had received a majority of the *lawful* votes given at the polls.

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The proceedings of the committee having charge of this subject, will be seen by reference to the report below, up to the time that the report of the majority of the committee was presented, and we now proceed to give a statement of what has since transpired.

But it must be remarked in advance that the Committee, having determined that if an investigation was to be prosecuted behind the commissions of the Governor, every principle of equity and fairness required that there should be a thorough search into the legality of the votes given for each party, and finding that there was no sufficient testimony before them by which it could be ascertained for whom a majority of the qualified voters of New Jersey had cast their votes, such time was granted as the parties themselves deemed requisite to enable them to take such testimony as they might think advisable to establish their respective claims, and that accordingly the parties severally left Washington for the State of New Jersey, where they now are engaged in the prosecution of this work.

During their absence, and shortly after their departure from the city (no *complaint* and no *application* coming from them to the House), the Chairman of the Committee submitted a proposition to have the documents relating to the contested seats printed for the use of the Committee. This furnished a pretext for the introduction of another proposition, that the Committee should be instructed to report *forthwith* which of the parties had received a majority of all the votes given at the election. After long debate, this was so modified as to require them to report upon the *lawful* votes, which expressly, as a matter of course, excluded, all *unlawful* votes.

The subject went to the committee and with a precipitation which we deem in a high degree exceptional, the majority of the committee adopted a resolution directing all the votes given to be reported as *lawful*, under a most extraordinary mental delusion that the instruction required it, because the committee were required to report *forthwith*. All efforts to have the testimony then before them examined

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were successfully resisted—reasonable time to the minority to report these and other facts to the House, denied. The report was prepared, presented and received, without delay, the title to which is well adapted to create the impression that the votes reported were all *lawful* votes, while the body of the report itself (which few comparatively of those who see the title will read) labors to excuse the committee for not ascertaining whether the votes were *lawful* or *unlawful* —a member of the minority of the committee attempted to explain the facts to the House—the Speaker decided that he was entitled to the floor—the majority of the House overruled the decision of the Chair, and refused him the privilege of speaking—the previous question was demanded, all debate stifled—in the meantime a counter-report is prepared and offered to the House—they refused to receive it, and proceeded at once, wholly ignorant of what the testimony established, with a madness and blindness belonging to desperation only, to vote by the entire strength of their party, that the non-commissioned members had received a majority of *lawful* votes, and were, therefore, duly elected, and entitled to occupy their seats as the representatives of the State of New Jersey; and while the public funds are to be freely used for the distribution of the report of the five administration members of the committee, private means are to be resorted to, to distribute the report of the four minority members.

It is a circumstance, not the least remarkable in this extraordinary case, that the individual members of the majority, refused to recognize, or adopt the reasoning of the report, but were entirely satisfied with the conclusions drawn from it, while the author of the report was equally well satisfied with his own reasoning but could not adopt the conclusions, as evinced by his refusal to vote for the resolutions based upon it, though present at the time.

For every *fact* here stated, we pledge ourselves to produce the proof whenever called on, either before the House or the country; they are facts on record, to be found on the journals of the committee and of the House.

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And now, we ask by whom these five gentlemen have been elected? By the people of New Jersey, or by the friends of the administration in Congress? And have we said too much in characterizing this proceeding as novel, extraordinary, and appalling! Have we done more or less, than our duty as citizens of this republic, and as Representatives of the people, in thus calling your attention, emphatically, to this subject; in warning you of your danger, and in asserting the necessity of an immediate interposition of the majesty of the people, at the ballot boxes, to correct such monstrous abuses in future.

It has been said, and was generally understood, that the party in power, had, in secret caucus, resolved on the necessity of admitting the administration claimants, to carry through some of the odious schemes of the present administration; still we hoped that before they struck the final blow, they might be induced to listen to reason and to justice. We appealed, but we appealed in vain; their resolution was as determined as it was unjust; they voted, and succeeded, and that by a boasted majority of thirty.

How was that majority obtained? Only because some of the members regarding the outrage as highly gross and violent, refused to vote, or contribute to the formation of a quorum, for the adoption of a report and a resolution not founded, as we all conceive, on the testimony of the case, and not warranted or justified by any consideration whatever.

A noble subject for boasting, truly. Let them make the most of it. It is a matter of pride to us, that we, at least, resisted it, and resisted to the last.

We feel that we have discharged our duty; if you are too indifferent to your own liberties, to discharge yours, be it so —the consequences must fall partially on yourselves, but mainly on your posterity; but as citizens of this Republic, we tell you we are mournfully apprehensive for the future, and that you may not think we are too grave and too solemn, on this vitally important question, we beg leave respectfully to invite your attention to the proceedings in several

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of the State Legislatures, particularly those of New Jersey, Massachusetts, New York, and Virginia, and to the Special Message of the Executive of the last-mentioned Commonwealth, and if all this does not arouse you to the importance of this subject, all further effort on our part will be vain.

But we will not permit ourselves to indulge in any apprehensions—we are not old enough—we have not yet come to that pass when those who are clothed with power for the protection of our liberties, can be sustained in such an encroachment on the rights of the people, either for the purpose of propitiating Executive favor on the one hand, or of perpetuating political power on the other.

We respectfully ask that our report, which those who should have acted upon it have refused to receive (the first instance of the kind, as we believe, that has occurred in the government), may meet with that calm, temperate and unprejudiced deliberation to which it is entitled from the importance of the question involved.

MILLARD FILLMORE. GEO. W. CRABB.
JNO. M. BOTTS. TRUMAN SMITH.

WASHINGTON, March 12, 1840.

FOR DEFENCE OF BUFFALO.

March 23, 1840, on motion of Mr. Fillmore, it was

Resolved, That the committee on Military Affairs be instructed to inquire into the expediency of fortifying the Niagara frontier, and especially of providing for the protection and defense of the harbor and city of Buffalo.

On motion of Mr. Fillmore:

Resolved, That the Secretary of War be directed to report to this House what machines, tools, or implements, if any, belonging to the United States, or used in the construction or repair of the harbors or piers or other public work on the great northern and western lakes, or the water connected therewith, have been sold since the first day of January, 1840, and the cost of such machines, implements, or tools, respectively, and the price for which they

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were respectively sold, and the authority by which such sales were made.

The second session of the Twenty-sixth Congress was begun on December 7, 1840. On December 21st Mr. Fillmore offered the following:

Resolved, That the President of the United States be requested to communicate to this House (if not in his opinion incompatible with the public interest) all the correspondence between this Government and that of Great Britain, or the officers and agents of either, or the officers and agents of this Government with the President or any of its Departments, which has not heretofore been communicated to this House, on the subject of the outrage of burning the Caroline on the Niagara frontier; and whether there is any prospect of compensation being made to the owner of said boat for the loss thereof; and also whether any communications have been made to this Government in regard to the arrest and imprisonment of ———[1] McLeod, by the authorities of the State of New York, for being concerned in said outrage; and if so, that he communicate a copy thereof to this House.

On the same day Mr. Fillmore submitted the following resolution, which was referred to the Committee of the Whole on the State of the Union, and ordered to be printed:

Resolved by the Senate and House of Representatives in Congress assembled (two-thirds of both Houses deeming it necessary), That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which article, when ratified by three-fourths of the said Legislatures, to be valid, to all intents and purposes, as part of the said Constitution:

"The six years' term of service prescribed in the Constitution for United States Senators, and the two years' term for which members of the House of Representatives are to be chosen, shall commence on the first day of December, instead of the fourth day of March.

"Those Senators and Representatives who shall be in office when this amendment shall be adopted as a part of the Constitution, shall hold their offices respectively until the first day of December next after the fourth day of March when their offices would expire had this amendment not been made."

1. Alexander.

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BURNING OF THE CAROLINE

On January 2, 1841, President Van Buren sent a Message to the House, with correspondence which had passed between the Secretary of State, John Forsyth, and the British Minister, Mr. H. S. Fox, concerning the imprisonment of Alexander McLeod of Upper Canada on a charge of murder and arson in connection with the destruction of the steamboat Caroline on the Niagara in December, 1837. Mr. Fillmore shared in several debates regarding Great Britain's demand for McLeod's liberation, and other subjects related to the border disturbances of 1837-8. On January 4th he moved that President Van Buren's Message, with accompanying documents, be referred to the Committee on Foreign Relations, and that five thousand extra copies be printed. Before resuming his seat, Mr. Fillmore spoke in substance as follows in relation to the communication from the Minister of Great Britain, "and in regard to the facts as stated by that functionary in connection with the outrage upon the steamboat Caroline":

"That boat, as I am informed on good authority, belonged to a man in the city of Buffalo, named William Wells, who was, and is now, considered a very peaceable and respectable citizen of that city. The boat did not belong to the 'Patriots,' or the insurgents of Canada, nor was it in any way whatever under their control or authority." This being the case, he could not conceive why the appellation bestowed upon it by the minister of Great Britain could have been given. There was no reason for it. Yet, said Mr. Fillmore,

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he has thought proper to call the boat a piratical vessel, in the employ of those persons denominated Canadian Patriots.

Mr. Fillmore then proceeded to state what he maintained were the real facts in relation to the burning of the Caroline: Mr. Wells, at the time the insurgents were in the occupation of Navy Island, in Niagara River, on the Canadian side, was then in the city of Buffalo, twenty miles above. He there applied to the custom-house authorities for permission to run a boat, as a ferry boat, from Schlosser across to Navy Island. Permission being given, the Caroline commenced running, simply as a ferry boat, being totally unarmed, and having no connection with the insurgents. Neither did the boat carry any arms or munitions of war of any kind to those on Navy Island, but was engaged merely in the carrying of passengers. After making several trips, the boat was at night safely moored and secured within the wharf on the American side—not within the "nominal" territory of the United States, but within the ***undoubted*** territory of this Government; "as much so," said Mr. Fillmore, "as this hall, in which we are now assembled, is in the territory of the United States. After being thus safely moored at the wharf in our territory, it was left in the charge of a watch, unarmed, and without any arms whatever being on board, except a single pocket pistol, not loaded. Well, while the boat was thus lying within our territory, it was attacked in the night by an armed force in Canada, sent, as it now appears, by the authority of her Majesty. One man was murdered, others injured, the boat then set on fire, turned adrift, and sent over the falls. This was the 'arson' complained of; this was the 'murder' complained of. One of our citizens was attacked, unarmed, and had his brains knocked out; and there was every reason to believe that others were killed, or so injured as to be unable to leave the vessel before it went over the falls.

"Now, by the laws of the State of New York this was murder, and nothing less than murder; and the perpetrators, on being apprehended, would be tried by the laws of that State for the crime. It was a matter pertaining to the State;

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and neither this Government nor the Executive of the Government, could have any control over it, unless, indeed, the Government of Great Britain should see fit to repeal its present law, and, entering into treaty stipulations, make laws which should be truly applicable to the case." If so, Mr. Fillmore was understood to say, the matter might perhaps be compromised. But, apart from that, if the same spirit was manifested by the powers at home as was exhibited by the British Minister here in relation to this matter, he (Mr. Fillmore) conceived that the necessary consequences of the conviction of McLeod would be serious indeed. He had no doubt but that McLeod would be put upon his trial, when he sincerely hoped he would be found innocent. But if he should be found guilty, he had no doubt but that he would be executed, unless, indeed, a force much larger than common should be brought from the Canada side to his rescue.

Mr. Fillmore concluded by showing that his reason for making these remarks was to show that there was a false impression entertained by Mr. Fox in regard to the facts of the case.

ON THE RIGHTS OF MEMBERS.

January 5, 1841, Mr. Fillmore shared in debate on a Pennsylvania contested election case,[1] the gist of his argument being that any person contesting the right of a member to a seat, had a right to be heard. He contended that the right to be heard did not result from the fact of a man being a candidate or not.

1. The case was that of the third Congressional District of Pennsylvania, Charles Naylor and Charles J. Ingersoll being rival claimants for the seat—the former being the occupant, the latter the contestant. Mr. Fillmore's argument was that Ingersoll was entitled to a hearing. On the day following—January 6th—he introduced a bill entitled: "An Act regulating the taking of testimony in cases of contested election, and for other purposes." Mr. Naylor was finally declared entitled to the contested seat.

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ON THE CASE OF McLEOD

In February, 1841, the House Committee on Foreign Affairs made a report on the burning of the Caroline and the case of McLeod. In the lively debate which ensued, Mr. Fillmore shared. His principal remarks, February 13th, were in substance as follows:

I may have mistaken the purport of this report; I have only heard it read once at the Clerk's table, and I have had no opportunity to examine its contents. The gentleman from South Carolina [Mr. Pickens] says it is conciliatory; that it will add nothing to the exasperated feeling already existing on the frontier. I believe that he thinks that his report will have that effect; but I much fear, from what other gentlemen of the committee say, that he is mistaken. I voted in favor of laying the motion to print on the table because I thought the effect would be such as the gentleman anticipated, and I wanted the report laid on the table that I might have time to look into it, and see if my original impressions should be confirmed. If, upon examination, I had found that it was not calculated to produce the results I apprehended, no man would vote for its printing more freely than I would. The House, however, has refused to lay the motion to print on the table, and has thought proper to decide that the report shall be published.

Having, as I have stated, only heard the report once read, and judging from what others say of it, I concur in the opinion of the gentleman from Massachusetts [Mr. Adams] that the subject should be recommitted to the Committee on Foreign Affairs. I had hoped from the Committee a calm, deliberate, and dignified report in the case of the burning of

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the Caroline and the arrest of McLeod; that it would have been limited to that matter alone, instead of embracing, as it apparently does, all our subjects of controversy with Great Britain; and that it would have set the country right with reference to the facts in that case. I may be mistaken as regards some of those facts, but upon a careful examination of the testimony, subsequent to the time when I last submitted a few remarks on this case, I observe I was mistaken in some of the facts connected with the transaction. As I was not present on the occasion, all the knowledge I have I derive from the newspapers and from public documents, as others may, and probably do. But upon this question, which, as I have said, is one of vital importance to that part of the country where I reside, we must recollect, in the first place, that there is a judicial question depending. And I was in hopes that in this report, exciting and inflammatory in its character as I now think it is, nothing would have been said, and that so far as this House was concerned, nothing would have been done, calculated to increase the excitement which already exists. I confess that I have heard with regret and shame the reports from that part of the country in regard to the treatment of this individual, who is so soon to be put upon his trial for murder. I cannot for any consideration countenance for a moment the idea that the laws of this country are to be basely trampled on by any authority whatsoever. I cannot countenance the idea that the judiciary of the country shall for a moment be overawed, directed, or controlled, by any other authority than that of the laws themselves.

And, whilst I say this, I am also unwilling to countenance anything there, or to do anything here, which may tend to such results. I hope that we may have been misinformed as to the nature of the proceedings there; I am unwilling to believe that, in a community of citizens such as that, and with many of whom I am well acquainted, and who are highly respectable and intelligent, such things have occurred. I say, I hope we have been misinformed; I trust we have. I have seen different statements of those transactions, and

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some of them thave been of an exculpatory character. But one thing, at all events, should be borne in mind by all whose duty requires them to act on this subject here. There is a great state of excitement on that frontier, which might by possibility lead to an outbreak. My objection to the printing of the report was, that it was calculated to inflame the public mind; and I was governed in that vote by three reasons.

In the first place, I did not wish that anything should be done here which might have a tendency to do injustice to the individual who is soon to be tried by the laws of the State of New York. I desire that the law should have its free action; that no excitement should be raised against McLeod which might prevent a fair and impartial trial. In the second place, I do not desire that any action on the part of this House should compromise or control the Executive of this nation in the negotiations now pending between the Government of the United States and the Government of Great Britain.

I have all confidence in the incoming Administration. If this controversy can be amicably and honorably settled between the two Governments, I desire that it should. But there is a third and very strong reason in my mind against anything being done to exasperate the public mind on the subject of war with Great Britain. It is this: for three or four years I have used all the exertions in my power to induce this Administration, which is responsible to the country, to provide some means of defence on our Northern frontier. But all my efforts were in vain. And yet the gentleman from South Carolina [Mr. Pickens] now tells us that the course to be pursued to avoid war with Great Britain is, to stand up to her—to threaten her—to take a high stand; and that, he says, will avert a war. I may have been mistaken in the meaning. I know that those were not his words. But I would submit to him that the best way to avoid a war with Great Britain, is to show that we are prepared to meet her, if there is to be war; because reasonable preparations for defence are better than gasconading.

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Mr. Fillmore then alluded to the defenseless condition of the Northern frontier. He desired, and believed the whole country desired, that we should yield nothing to the demands of Great Britain, to which she was not fairly entitled. But, at the same time, he regarded it as rather the act of a madman, to precipitate the country into a war before it was prepared for it, than the act of a statesman. In his section of the country, the people would yield nothing to Great Britain to which she was not justly entitled; or they would yield it only with the last drop of their blood. But he did not wish prematurely to be drawn into war; he did not wish to invite Great Britain to invade our defenseless coast. The true plan was to prepare for war if we had yet to come to it, but to do nothing in the way of bragging. If it did come, gentlemen would not find his [Mr. Fillmore's] people shrinking from their just share of responsibility. All they had—their property, their lives, everything—they were willing to devote, if need be, to the service and honor of their country. But, was it not the part of wisdom and prudence, before we made a declaration of war, to prepare for it? This was all he desired; and if this report was calculated to stir up a war feeling, without corresponding preparation being made to meet the consequences, he, for one, was opposed to it. He did not wish the country to be disgraced by defeat. When she must go to war, he desired to see her prepared for it; he desired to see her placed in a situation which would enable her to bid defiance to the power of any government on earth.

Mr. Fillmore then alluded to the Fortification bill reported from the Committee of Ways and Means. That bill contained appropriations to the amount of nearly half a million dollars (though that, he believed, was only about half of the amount usually appropriated for such purpose); and yet there was not a solitary fortification on the Northern frontier to which any part of that money was to be applied. Was this the way in which we should prepare for war? Did the gentleman from South Carolina who presented the report, desire to declare war against England, before the new Ad-

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ministration came into power? If so, he [Mr. Fillmore] would oppose it. He was for war, if necessary, but not until we were prepared for it. He wished, therefore, that the gentleman from South Carolina, would permit the report to be recommitted to the Committee on Foreign Affairs, and that that committee might be instructed to confine themselves to the subject originally referred to them, and to that alone. For his own part, he trusted and he believed that the *right* of this matter was with the American people; and it ought at all hazards to be maintained. But he was unwilling at the close of a session, and when the present Administration had but something like two weeks to remain in power, to precipitate the nation into war without any preparation on our part to meet it. And it was for this reason mainly that he objected to the report. But as he said before, he might be mistaken as to its contents. He hoped he was; for he was at all times prepared to go with him who went furthest in maintaining the honor of the nation and punishing insult or aggression.

FRONTIER DEFENSIVE MEASURES.

February 16, 1841, Mr. Fillmore introduced the following:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill making the necessary appropriations for fortifications, naval armaments, and other necessary preparations to place the country in a proper state of defence. (Adopted.)

He subsequently (February 26th) sought, unsuccessfully, to have the Naval Appropriation bill so amended that

"in case the Government of Great Britain shall build any naval armaments for any of the lakes or rivers separating the United States from the Canadas, then it shall be the duty of this Government to build vessels on our side of at least a corresponding size; and so much of the money hereby appropriated as may be necessary, shall be applied to that object."

This resolution, however, was ruled out of order.

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ON THE SUB-TREASURY REPEAL BILL.

June *22*, 1841, on the Sub-Treasury Repeal bill, Mr. Fillmore spoke at length. There seemed to him to be some doubt whether the enacting of the second clause of the Senate's bill would not revive the State Bank law of 1836. This was a serious question; for he believed that the State Bank system was almost as universally condemned by the people as the Sub-Treasury.

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TWELVE MILLION DOLLAR LOAN

June 24, 1841, Mr. Fillmore from the Committee on Ways and Means reported a bill authorizing a loan not to exceed $12,000,000.

In the House July 7th, Mr. Fillmore announced his intention of offering an amendment when the fourth section should be under consideration. Before reaching that section he spoke at some length, giving a general analysis of the bill. It authorized the President to borrow twelve millions of dollars at an interest not to exceed 5% reimbursable at the end of eight years, with an additional authority to the Secretary of the Treasury, when there should be a surplus in the Treasury, to buy up the stock.

The first question would be, said Mr. Fillmore in substance, is such a loan necessary? or any part of it? For it did not follow because the President was empowered to borrow twelve millions that he must therefore borrow the entire sum. In order to ascertain whether the loan was necessary, it would be requisite to resort to the report of the Secretary of the Treasury, from which it appeared there would be a deficit on the 1st of September next of $5,251,388.30. This was the most immediate and pressing want of the Treasury. This deficiency now existed, and the money would be wanted to meet the demands on Government between now and the 1st day of September next. Mr. Fillmore quoted at length from the Secretary's report and went on, item by item, explaining each briefly, concluding with a comparison between a loan and treasury notes as a measure of

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supply, and declaring his preference for a loan as more convenient, "and also more open and manly."

July 12th he spoke further on the same measure; calling especial attention to the falling off in revenue under the Compromise Act.

From over six millions, they had fallen down to three million, one hundred and fifty-eight thousand, only four-tenths of which fell in before the 1st of July. He stated the total reduction on the customs amount to seven and a half millions. The previous Administration had used up all the current revenue, besides seven millions extra, which had been in store when they came into power. They had thus used up fourteen millions extra, and still left the Government in debt. By what sort of magic did they suppose the Government was still to meet all demands after such a reduction? Then, besides, there were three million and a half taken off by the Land Bill for distribution. With a diminution, then, of from sixteen to eighteen millions, gentlemen still expected to make the country believe that the means of the Secretary of the Treasury were ample and abundant. A great confusion of ideas seemed to prevail as to the terms appropriation and indebtedness. There might be appropriation without indebtedness, and there might be indebtedness without appropriation. Suppose Congress should appropriate a large sum for works not to be begun till some future time, during that interval there would be an appropriation, but not strictly a debt. On the other hand, a work might be very necessary, and the Government under actual obligation to perform it, and yet no appropriation made for it. There would be a debt but no appropriation. There was now a large amount of debt to be appropriated for.

FORTIFICATION WITHOUT JURISDICTION?

On the Fortification Bill, July 14, 1841, Mr. Fillmore opposed an amendment appropriating $50,000 for fortifica-

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tion on Pea Patch Island, Delaware river, or elsewhere, if Government title to said island could not be obtained.

He apprehended there was little danger than an enemy would venture to advance so far up the river as to strike at Philadelphia, and there were other points besides this which might be availed of as points of defence. "To appropriate unconditionally $50,000 towards the works on the Pea Patch Island would only augment the difficulty of settling the title; the demands of the claimant would grow with every such addition to the value of the property."

The island in question was in itself of no value; all its value was from the expenditures of Government upon it; the more these were increased the harder it would be to deal with the owner. Mr. Fillmore was opposed to a forcible seizure under the right of eminent domain. A constitutional question might arise, whether the Constitution, in allowing private property to be taken for public use, contemplated real estate, or only personal. Besides, when a piece of ground was ceded by a State to the General Government for a fort or dockyard, not only the title went over but the jurisdiction also; but should Government, by its eminent domain, seize land within a State for public use, a question would arise whether it thereby obtained the jurisdiction at all, though it might get a title. Jurisdiction would depend on the assent of the State Legislature. And did you wish the Government to own a fort where it had no jurisdiction? . . .

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SPEECH ON THE REVENUE BILL

DELIVERED IN THE HOUSE OF REPRESENTATIVES
JULY 24, 1841.

Mr. Fillmore arose and said in substance, that he would avail himself of that occasion to speak of the necessity and object of the bill. What he had to say on the merits of the bill might as well be said at that time as any other. Indeed, the principal provisions of the bill were embraced in the first section. The other parts of it were merely intended to carry out in detail the principles there asserted, and prevent some frauds that were now practiced upon the revenue; and he would explain those, if desired, when they came up for consideration.

In the first place, he continued, I desire to solicit the undivided attention of the members of this House to the facts and figures to which I feel it my duty to call their attention. I deem the subject under consideration of vast importance to the country, and one that demands the sober deliberation of every member of this committee. It is a business matter—of facts and details—and were I ever disposed to make a speech for "Buncom" [1] this is certainly not the time or the occasion which I should select for that object. The little that I have to say will be unadorned with the flowers of rhetoric, and confined directly to the subject under consideration, and addressed to those who hear me.

1. An incorrect but frequent spelling. The use of the word, to indicate empty talk, originated in the Sixteenth Congress, near the close of the debate on the Missouri question. Felix Walker, an old North Carolina mountaineer, whose district included the county of Buncombe, rose to speak. An outcry against his continued remarks being raised, he protested that in behalf of his constituents he was bound to talk "for Buncombe."

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The first section of the bill declares, in substance, that a duty of 20 per cent. *ad valorem* shall be levied on all articles imported which are now free, or which bear a less duty than that proposed in the bill, except certain articles which are left at their present rates of duty, and certain other excepted articles which are to remain free. These duties are to be levied and collected in the manner now provided by law, with some slight modification as to teas. It will therefore be seen that the main object and scope of the bill is to raise revenue, and that its provisions are strictly within the terms of the Compromise Act.

The chief questions, therefore, that present themselves for our consideration are:

First. Will there be a deficit in the revenue for the current four years under the laws as they now stand, and if so, what additional amount will it be necessary to provide to meet the ordinary demands upon the Treasury?

Second. What is the best mode of supplying this deficit, and to what extent will the bill under consideration do it? and is it necessary or expedient now to act upon this subject?

I proceed, then, in the first place, to consider the probable amount of deficit for the four years of the present Administration, and in doing this, I shall take no notice of the loan of $12,000,000 that has been authorized, but not yet made, to relieve the present urgent wants of the Treasury, because, if it is made, it is intended to be repaid during the current four years, and it therefore adds nothing to our means for the whole time.

In judging for the future, we must draw instruction from the experience of the past; and as our object now is to ascertain, if practicable, the probable demands upon the Treasury, for the four current years, we will see what they have been for the four past years during the preceding Administration.

Before proceeding to this investigation, it is proper that I should here observe that, in the remarks which I may have occasion to submit in reference to the past Administration, no party allusions are intended. I shall speak of that Administration freely as matter of history, without one op-

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probrious epithet or one unkind allusion. The People have passed upon it, and I am content with their verdict. It is also proper that I should say that, in stating amounts, I shall generally content myself with giving the round numbers, seldom going below thousands, as a multiplicity of figures in debate rather serves to confuse than enlighten. And I shall proceed slowly, that every member who desires may have time to take down my statements, for I neither desire to deceive myself nor the members of this House; and if I have committed any error, either in fact or inference, no one will be more gratified than myself to have it corrected.

What, then, have been the ordinary expenses of this Government for the past four years? I have before me House Document No. 31 of this session, which, at page 18, contains a table headed as follows: "Statement of the appropriations and expenditures each year, from 1829 to 1840 inclusive, for the civil list, foreign intercourse, and miscellaneous objects, for the military establishment, pensions, fortifications, internal improvements, Indian department, and the naval establishment, exhibiting also the excess of appropriations over expenditure."

At page 25, the total expenditure for these objects in each year is given, and I desire to call the attention of the committee to them for the past four years. They are as follows:

In 1837	$ 31,610,000
In 1838	31,544,000
In 1839	25,443,000
In 1840	22,389,000
Making a total in four years of	$110,986,000
Averaging for each year	$ 27,746,000

Thus showing, if the experience of the past is to be a guide for the future, that our *annual* expenditures for the

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current four years will be near twenty-eight millions of dollars.

The next inquiry is, what amount of revenue we may reasonably expect for the current four years under existing laws, assuming, as I do for this purpose, that the bill for the distribution among the States of the proceeds of the public lands will become a law. Our only source of revenue, it will be recollected, will then be from customs. We have no available debts due us worth mentioning, and no funds on hand worth taking into account; but over and above the ordinary current expenses of the Government, we owe several millions of Treasury notes, and there are large arrearages and unliquidated claims, which accrued under the past Administration, many of which will doubtless have to be provided for during the present. Besides, liberal appropriations have been called for and made by this House during the present session for fortifications and for the navy, and to put the country in a proper state of defence. But I pass by these for the present, and proceed at once to consider the probable amount of revenue that will come into the Treasury from customs under the laws as they now stand. In order to determine this, it must be borne in mind that the Compromise Act goes fully into effect on the first day of July next, and that, after that day, no article imported will pay higher duty than 20 per cent. *ad valorem,* and it must also be borne in mind that there is a long list of articles that pay a duty, and are therefore classed among dutiable articles, nevertheless, by existing laws, the duty is less than 20 per cent.

But even if we should suppose that all goods imported that pay any duty paid one of 20 per cent. *ad valorem,* what would be the probable amount of revenue derived from this source? Here again we must recur to the past to judge for the future; and, in determining this, I think it more safe and just to rely upon the average amount of imports for a series of years than to attempt to select for any one year. In Document No. 2 of the House of Representatives for the present session, usually called the "Finance Report," at page

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20, may be found a table giving the whole amount of imports from 1834 to 1840, inclusive, distinguishing between those "free of duty" and those "paying duty," and giving the average result for the whole seven years.

[The table is omitted. It shows the value of imports, 1834 to 1840, amount free of duty and amount paying duty, year by year.]

I am the more disposed to rely upon the average result of this statement because the seven years embrace some of the most prosperous and some of the most disastrous known to our commercial history in times of peace. It will be seen that the fluctuations in different years have been very great, ranging from $107,000,000 to near $190,000,000. But the average result shows that the whole amount of imports "paying duty" over and under 20 per cent. is only $69,748,000, being a little less than $70,000,000; and when all these duties are reduced to 20 per cent., as they will be on the first day of July next by the Compromise Act, then, even supposing all paid that duty, which all will not, the whole amount of gross revenue derived from this source would be $13,959,000, or less than fourteen millions of dollars.

But even all this, limited and small as it is, is not available for the ordinary wants of the Treasury. That the committee may see the amount of drawbacks, deductions, bounties, and expenses of collection, all of which ought to be taken into the account, in determining the net amount of revenue received into the Treasury, applicable to the ordinary expenditures of the Government, I beg leave to call their attention to a table, to be found in Document No. 31 of this House, of the present session, at page 29.

[The table is omitted. It shows, itemized by years, 1834 to 1839 inclusive, the amount of duties which accrued on merchandise imported; the deduction under the Compromise Act of March 2, 1833; the "drawback" paid on foreign merchandise exported; on domestic sugar, spirits, etc., exported; allowances to vessels in the fisheries; expense of collection, and net revenue.]

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From this table it will be perceived that the average amount of "actual duties" for six years, from 1834 to 1839, inclusive was $23,176,000
And the net amount only..... 18,404,000

Making a difference of.....$ 4,772,000

If the same difference should exist after the first day of July next, then from these facts the matter would stand thus:

Gross amount of duties.....$13,950,000
Deduct for drawbacks, expenses of collection, etc. 4,772,000

And it leaves for net amount of duties....$ 9,178,000

But I do not conceive this to be precisely the mode of coming at the difference between the gross and net amount of duties as reduced under the Compromise Act. It is true that the "expenses of collection" will remain the same, as the officers employed in the custom-house are all salaried officers, whose compensation is not graduated at all by the amount of revenues collected. And at many ports where there are many officers, and where they are indispensably necessary—not to collect the revenue, but to prevent smuggling—the whole amount collected is not sufficient to pay the officers employed. The "bounties on pickled fish exported" and the "allowances to vessels employed in the fisheries" being in nowise dependent on the amount of revenue received from duties, will also remain the same, but we may reasonably suppose as the amount of duties falls off under the Compromise Act, the amount of "duties refunded" under the decisions of the courts, and the amount of "drawbacks" "on foreign merchandise exported," "on domestic refined sugar exported," and "on domestic distilled spirits exported," will also fall off in something like the same proportion. But this cannot be in reference to the drawback on refined sugar and distilled spirits without some further legislation, for the drawback on those articles was gradu-

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ated by the high rate of duty imposed upon them prior to the Compromise Act; but by the operations of that act the duty has been constantly diminishing, while the drawback remains the same, so that it now operates by way of bounty on the manufacture of those articles, and as a consequence the manufacture has greatly increased, being, as appears from the table to which I have referred, more than double in 1839 what it was in 1838. But this bill is intended to remedy that evil, and to reduce the drawback to the amount of the *import duty*.

Trusting that the committee will pardon this digression, I return again to the question I was considering—what sum should be deducted from the gross amount of duties, estimated under the Compromise Act at near $14,000,000, to ascertain the net amount applicable to the ordinary expenses of the Government? I had shown that the

"Expenses of collection"	$1,422,000
"Bounty on pickled fish exported"	7,000
Allowances to vessels employed in the fisheries	256,000
Making in all	$1,685,000

must remain the same. The remaining items are:

Duties refunded	$ 671,000	
Drawbacks on exports	2,256,000	
Drawbacks on refined sugar	148,000	
Drawbacks on distilled spirits	9,000	
Making a total of	$ 3,084,000	
The annual average gross amount of duties at that time was	23,000,000	
Under the compromise act it will be about	14,000,000	
a little less than two-thirds, but it will be near enough for my purpose to call it two-thirds.		
Then, one-third of $3,084,000 is $1,028,000; which deducted from $3,084,000, leaves		$2,056,000
Which, added to the above, makes		$3,741,000

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Then, according to this calculation, taking the law as it now stands, and judging of the future by the past, the calculation stands thus:

Probable annual expenditure.....		$27,697,000
Gross amount of duties after July 1, 1842....$13,950,000		
Deduct for expenses of collection, drawbacks, etc.	3,741,000	
Making your net revenue per annum....		10,209,000
And leaving an annual deficit of.....		$17,488,000

And this, too, independent of the public debt created by the past Administration, and which ought to be paid off during the present.

The revenues will be more than this for the current year, as the avails of the public lands are to be paid into the Treasury until the first day of January next, and the reducing effect of the Compromise Act, of which I shall have occasion to speak more particularly hereafter, will not be so sensibly felt until the first day of January and the first day of July next.

But it may be asked, if the amount of accruing revenues under existing laws are to be so small, and the expenditures of the past Administration have been so great, how have they been enabled to meet the demands upon the Treasury?

This is a very natural and fair inquiry, and I therefore anticipate it, with the view of answering it. The truth is, that the past Administration had certain resources and means, which are either exhausted or upon which we can no longer rely, or to which we do not desire to resort, from which it derived the means of making the expenditures to which I have alluded. And I desire to call the attention of the committee particularly to three particular and extraordinary sources of revenue which the past Administration enjoyed, and upon which we can no longer depend.

The first is the amount of money which was in the Treasury on the 1st day of January, 1837, and the debts then due

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the Government which have been collected and the money used, and the amount borrowed on Treasury notes and used up, which had a double effect, by increasing the means of the past Administration, and throwing an undue burden upon the present. The amount of these means in round numbers was $31,310,000; and that the committee may see a clear statement of them, I call their attention to House Document No. 2 of the present session, being "Finance Report," at page 5, where they will find the following statement on this subject:

From the year 1816 to 1837, a period of twenty-one years, the revenues constantly exceeded the expenditures. The average annual surplus during that time was $11,464,226.87 (see tables 1 and 2), making an aggregate excess of $240,748,764.27. Within that time there was applied to the extinction of the national debt $208,792,127.44, and there was, under the provisions of the act of the 23d June, 1836, deposited with the States $28,101,644.91, and there remained, on the 1st of January, 1837, in the Treasury of the United States, including the fourth instalment due to the States, a surplus of $17,109,473.26.

There were also outstanding debts due and falling due to the Treasury arising from other sources than those of the ordinary revenue, and which were paid between the 1st of January, 1837, and 4th of March, 1841, to the amount of $9,124,747.00.

There were also issued within that period, and outstanding on the 4th of March, 1841, Treasury notes to the amount of $5,648,512.40.

Making the aggregate available means which were in the Treasury on the 1st of January, 1837, and which came into it prior to the 4th of March, 1841, over and above the current revenues, $31,882,732.66.

From which deduct the amount (less the trust funds) remaining in the Treasury on the 4th of March, 1841, $572,718.46.

And there appears an excess of expenditure over the current revenue of $31,310,014.20.

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Here, then, is an amount of more than $31,000,000 received and expended by the past Administration from sources from which we have little or nothing to expect. They had in the Treasury, on the 1st of January, 1837, more than $17,000,000, all of which has been expended; and they only left on the 4th of March last, as appears by the above statement, the small sum of $572,000, a sum comparatively too trifling to be worth mentioning.

But this is not all. We had then due us a large debt for the sale of our stock in the United States Bank, and of that they have collected and expended during the past Administration more than $9,000,000; and the little balance, if any, that is due is too trifling to be taken into the account. This is also gone. But even this is not all; they borrowed more than $5,000,000 on Treasury notes, and have expended the money, and left the debt to be paid by the present or some succeeding Administration. We have nothing to expect from this source, unless we are willing to go on and increase this public debt. For one, I am not; I rather prefer to provide the means to pay it off. Here, then, are $31,310,000 received by the past Administration from sources from which we have nothing to expect; but in striking the balance between the two Administrations, and estimating the means that ought to be provided for the present to put it on a par with the last, we ought to add this Treasury note debt to the above sum, which would make it $36,958,000, for, although we have charged it to their means above, yet it is to take so much from our ordinary means if we pay it; and I trust we shall.

This, then, sir, is one item, and I now call the attention of the committee to another. I mean the avails of the public lands. As the bill that passed this House distributing them among the States has not been rejected by the Senate, I feel bound to assume, and so must this House, in estimating for the ways and means to carry on the Government, that that bill will become a law, and will, after the first day of January next, restore the proceeds of these lands to the People of the several States, to whom they justly belong.

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And, in passing, I may be permitted to say, sir, that I voted for that bill, not as a financial measure, but as a matter of right to the States, and as a great conservative measure, rendered necessary by the course of events to preserve this great and rich patrimony for the people to whom it belongs, and to prevent its being squandered and gambled away by trading politicians and reckless demagogues. It was fast becoming a great corruption fund that it was necessary to restore to its rightful owner, that it might be guarded from the corrupt temptations of avarice, and the still more baneful and dangerous influences of inordinate and time-serving ambition. I only regret that this could not have been done at a more auspicious moment for the public Treasury. But the object to be attained was, in my mind, far above any temporary inconvenience that might arise to the Treasury, and, therefore, I gave it a most cordial support.

During the four years of the past Administration, there was paid into the Treasury from the avails of the public lands, $20,226,000. At page 3, document 2, the Secretary estimates the amount to be received from the public lands this year, from March 4th to January 1st, at $2,500,000; which, deducted from the receipts of the preceding four years, leaves $17,726,000; being almost $18,000,000 more from this source than the present Administration can calculate upon.

But this is not all. There is another source of revenue of vast importance, which was enjoyed by the past Administration, which is about to be cut off under the operation of the Compromise Act. In order that I may explain this fully, it is necessary that I should go something into detail as respects the provisions of that act. We all know that this act was passed on the 2d of March, 1833, being the final compromise between constitutional power on one side and nullification on the other. I do not propose to speak of its merits, much less of the merits of the controversy out of which it grew; and I only intend now to speak of its provisions so far as they affect the revenue arising from duties.

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With the view of reducing all duties to a maximum of 20 per cent. *ad valorem*, this act provided that, on the 1st day of January, 1834, one-tenth of the duties over 20 per cent. on all articles imported should be taken off, and on the 1st day of January, 1836, another tenth, and on the 1st day of January, 1838, another tenth, and on the 1st day of January, 1840, another tenth, and on the 1st day of January, 1842, three-tenths more, and on the 1st day of July, 1842, the remaining three-tenths should be deducted; so that after that day no article imported should bear a higher duty than 20 per cent. *ad valorem*. It will thus be perceived that, under the operations of this act, four-tenths of the duties above 20 per cent. have already been deducted, and that three-tenths more will be deducted on the 1st day of January next, and the remaining three-tenths on the 1st day of July next.

In order to determine how this affects the revenue, it is necessary to ascertain how much these deductions take off from the duties on imports. By a reference to a table to which I have already called the attention of the committee, in House Document No. 31, at page 29, in the second column of that table, it will be seen what the deduction has been under this act from 1834 to 1839 inclusive.

Let us first see what the average deduction has been for every 10th, and then see its average for every year. The table furnishes the following basis for this estimate:

In 1834, 1-10th was deducted, amounting to.....	$ 689,723 12
In 1835, 1-10th was deducted, amounting to.....	959,255 50
In 1836, 2-10ths were deducted, amounting to.....	2,086,281 04
In 1837, 2-10ths were deducted, amounting to.....	1,465,182 20
In 1838, 3-10ths were deducted, amounting to.....	2,630,424 40
In 1839, 3-10ths were deducted, amounting to.....	3,158,460 51
Total deducted	$10,889,326 77

Total of 10ths—12.

Now, if we divide the aggregate of deductions by the tenths which produced it, the average amount of each tenth will be $907,444.

This, then, furnishes an easy rule by which to determine what was deducted during the past Administration, and

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what will be deducted during the present, and the difference will be the amount which the past Administration received and expended from a source from which the present can receive nothing.

In 1837, 2-10ths were deducted, being twice $907,444.....	$ 1,814,888
In 1838, 3-10ths were deducted, being three times $907,444	2,722,332
In 1839, 3-10ths were deducted, being four times $907,444	2,722,332
In 1840, 4-10ths were deducted, being four times $907,444	3,629,776
Making a total of deductions during the past Administration	$10,889,328

Now let us see the amount of deductions by the same process for the current four years:

In 1841, 4-10ths are to be deducted, being four times $907,444	$ 3,629,776
In 1842, 7-10ths for half a year, being seven times $453,722	3,076,054
In 1842, 10-10ths for half a year, being ten times $453,722	4,537,220
In 1843, 10-10ths for the whole, being ten times $907,444	9,074,440
In 1844, 10-10ths for the whole, being ten times $907,444	9,074,440
Making a total of.....	$29,391,930
From which take the amount deducted during the past Administration	10,889,328
And it leaves..... which the past Administration has received from customs, more than can be received by the present Administration as the law now stands: all of which is gone.	$18,502,602
Add to this the first sum mentioned, minus the debt they left for their successors.....	31,310,000
Add also the amount which they received from the public lands more than can be received by the present Administration, as I have stated.....	17,726,000
Making in all.....	$67,538,602

All of which has been received and expended during the past Administration; and that too from sources from which the present Administration has nothing to expect. This is equal to $16,884,000 for each year of that Administration.

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In other words, had they come into power with no other means or resources than what the present Administration has—assuming that the land bill becomes a law—they would have left the Treasury empty, and incurred a national debt of $67,538,000.

Comment upon this state of things is unnecessary. It is clear that the Administration cannot go on so. Something must be done to replenish an exhausted Treasury and to maintain the good faith of the Government. I shall not assume to say what the amount of deficit in the Treasury will be, but the bare statement of the case shows that it must necessarily be very large. It calls loudly upon us for retrenchment and reform—not that retrenchment that is heard in strong professions before election, and is never heard of afterward, but for thorough, practical retrenchment, by which every unnecessary office shall be abolished, and every salary that is too high cut down, and a system of rigid economy and accountability in the expenditures of the public money adopted. I hope my friend from Virginia [Mr. Gilmer] will, by the investigations of his select committee, show us how much money may be saved. But all this is a work of time. Investigations must first be had and then laws passed before any of these retrenchments can be realized. In the meantime our expenses are accruing, and we have no means of meeting them. We must look these things in the face. We must meet this crisis as best we can. No matter by whom the governmental machine has been permitted to get out of repair and run down, it is now in our charge, and we are bound to repair it, and set it in motion. On us, whether friends or foes to the present Administration, rests this responsibility, and we cannot absolve ourselves from it. Our country's honor is involved, and I have no apprehensions that my constituents will not cheerfully and promptly meet the additional demands which it may be necessary to make upon their means to supply the wants of this Government when it is economically administered; and when they think it is not, they will turn out the unfaithful stewards and put more trustworthy ones in their places. But

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they will pay the honest creditor of the Government, even though the steward may have proved unworthy of his trust. And I claim no more patriotism or magnanimity for my constituents in this matter than I am willing to grant to those of every other member upon this floor.

But, before I pass from this subject, I beg leave to say, that, in making up our minds as to the amount of additional revenue that may be wanted to meet the probable demands upon the Treasury for the current years, while we flatter ourselves with the retrenchments we may effect, not only in the few expenditures to which I have alluded, but possibly by putting an end to that most inglorious, unfortunate, and ruinous of all wars—I mean that with the Florida Indians—yet it must also be borne in mind that we have to provide for the debt incurred during the last four years, and that the practice has been for several years past to stave off all private claims without much regard to their merit, many of which are doubtless just and should be paid, and that several of the States, particularly Maine, Georgia, Alabama, and Louisiana, have large claims accruing under the past Administration, which, if just and legal, must be paid, independent of the nameless and numberless unliquidated claims growing out of the Florida war and the removal of the Indians, many of which are doubtless just and must be paid. I barely mention these among the numerous demands that may be made upon the Treasury of an extraordinary character during the current four years, to show that we cannot estimate the probable amount.

But the next question is, How is this deficit to be supplied, whether you call it $16,000,000 or $18,000,000 per year, or more or less? It is clear there must be a large deficit that must be supplied from some source, and I know of but three modes in which it can be done. First. You may borrow. Second. You may lay a direct tax upon the property of the country. Or, third, you may lay a duty upon goods now imported free, and upon those bearing a less duty than 20 per cent.—equal to 20 per cent.—and in that way supply the wants of the Treasury to the extent of those means.

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I shall enter into no argument to show that we ought not to depend upon borrowing to supply the ordinary wants of the Treasury. We have tried that, more or less, for the last four years, and have finally funded the debt with a view of paying it off during the current four years. A public debt is justly odious to the people of this country, and I am unwilling to see it increased, except from absolute necessity.

The next mode is by a direct tax. The gentleman from South Carolina [Mr. Rhett] and my colleague from New York [Mr. McKeon] spoke in favor of this mode of supplying the Treasury a day or two since; and I apprehend there are very few members on this floor who would advocate that doctrine.

[Here Mr. McKeon rose to explain, but as Mr. Fillmore's hour was nearly exhausted, he declined yielding the floor.]

I shall be happy to hear that I have mistaken my colleague. Let those who prefer direct taxation to indirect by customs, look at England, where they both prevail, and see the picture of inquisitorial intrusion and official insolence and violence to which their excise system naturally leads, and I think he will prefer duties to excise or direct taxation.

The only remaining mode is by duties as proposed in this bill; and this brings me to speak directly upon the merits of the measure itself. I beg leave to call the attention of the committee to the views entertained by the present Secretary of the Treasury on this subject. They will be found in Document No. 2 of this House, usually called the "Finance Report," at page 6, where, after speaking of the embarrassments of the Treasury and the public debt already accrued, and the constant increase of both, he says:

"But as it may not comport with the views of Congress to go into a revision and adjustment of the customs so long before the act of March 2, 1833, comes to have its final and permanent operation, the undersigned would respectfully recommend, *as a temporary measure*, the levy of a duty of 20 per cent. ad valorem on all articles which are now free of duty, or which pay a less duty than 20 per cent., except gold and silver, and the articles specifically enumerated in the 5th section of the act of March 2, 1833.

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"If this measure be adopted, it is estimated that there will be received into the Treasury from customs, in the last quarter of the present year, about $5,300,000; in all of the year 1842, about $22,500,000; and in the year 1843, after the final reduction under the act of March 2, 1833, about $20,800,000. The details of this estimate will be found in the accompanying paper, marked E, and enclosures."

These are the views of the present Secretary, Mr. Ewing; and the Committee of Ways and Means have, in the main, concurred in them, and the bill under consideration is intended to carry them out. But the members of this House, on a measure of so much importance, may desire to know what were the views of the late Secretary of the Treasury on this subject. I am happy to have it in my power to gratify them in this respect. Mr. Woodbury, the late Secretary of the Treasury, made a report to the Senate on this subject, dated January 18, 1841, which is No. 93 of State Documents, second session of the Twenty-sixth Congress, and to which I invited the special attention of every member of this committee, that he may see how well these two secretaries agree on this subject. Indeed, I cannot well see how they could disagree, for both knew the exhausted state of the Treasury, and no rational man could doubt as to the mode of replenishing it. The only chance of difference among statesmen and financiers must be as to the particular articles that should be selected from the free list on which to impose duties. Mr. Woodbury gives what he calls a list of all free articles, and then says a duty of 15 per cent. on them would raise the required amount, but thinks it objectionable, and finally says, at page 6:

"Another mode of raising the same amount of revenue would therefore be preferable, if it could be accomplished without including those articles. Suppose, then, that there should be selected from the free articles those which may be regarded most as luxuries, though not in every respect belonging exclusively to that class; such are tea, coffee, and silks: should we then add to them others, conflicting with similar American productions, such as worsteds, linens, &c., and the aggregate deducting the amount re-exported would be $29,026,448. See the second table B. A duty of 20 per cent. on those, after paying the expenses of collections, would yield about

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the same amount of five millions. This, seems to contain the general data for the most eligible and unexceptionable revision."

[Mr. Fillmore here presented statistics from "table B," with a list of articles on which a twenty per cent. duty was recommended to be levied.]

Thus you have the plan of the late Secretary of the Treasury, Mr. Woodbury, for the revision of the tariff, in order to supply the deficiency in the Treasury, which he has styled "the most eligible and unexceptionable revision."

I now call the attention of the committee to so much of tables Nos. 1, 2, 3 and 4, in House Document No. 31 of this session, as is necessary to show the articles upon which the proposed bill will operate, and the probable amount of duties to be raised thereby. The tables explain themselves, and are arranged in this manner, because, as I am informed, this is the mode in which the accounts are kept at the Treasury. The first table gives those articles now free that usually pay an *ad valorem* duty. The second, those now free that usually pay a specific duty, with the estimate of a specific duty equal to the *ad valorem* duty. The third, those wines that now pay a specific duty, with the increased revenue that would arise from an *ad valorem* duty. And the fourth, gives a list of those articles that now pay a less duty than 20 per cent. *ad valorem,* which, under this bill, will be raised to that amount. These tables have been prepared at the Treasury Department by order of the Committee of Ways and Means, and are presumed to be correct, and so much of them as is necessary to illustrate this subject I here give:

[A mass of figures drawn from the reports of the Treasury Department, was here introduced. The tables give in detail the value of articles imported free, in 1840, and the amount of duty which would accrue on the same articles, under the proposed tariff. The Secretary of the Treasury estimated a net annual revenue, under the bill, after 1842, of $20,890,000.]

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I cannot now enter into the reasons for or against the selected articles for the imposition of duties. Though all would agree in the propriety of some discrimination, no two would perhaps think alike as to every article. No uniform rule can be established on this subject. Every case must stand or fall upon its own merits; and what might be very proper at one time might be equally improper at another. I doubt not some will be for including many articles which are exempt, and others will be for exempting many articles that are included. The committee were not unanimous on these subjects, and it cannot be expected the House will be. I anticipate a motion to exempt tea and coffee, and I will say one word on that subject. Tea and coffee are hardly necessaries; they rather belong to the class of luxuries. So Mr. Woodbury considered them, and therefore recommended them for taxation. We can hardly justify ourselves in taxing the necessary food and clothing of the poor man, both of which are indispensable to sustain life, and still exempt tea and coffee. Let us also consider that the duties on these articles, by the proposed bill, is so light that those who luxuriate over a good cup of tea or coffee will never know it. It will be seen, by table No. 2, that a duty of 20 per cent. on tea is less, on an average, than five and a half cents per pound; whereas, by the act of 1816, the duty ranged from twelve, to sixty-eight cents per pound. And on coffee it is less than two cents per pound; but, by the act of 1816, it was five cents. These are duties that will never be felt by the consumer. Were he not told of it, he would never know it. Again: if you exempt these articles, you cannot raise means enough to carry on the Government. They will be quite inadequate, I fear, with them in; and by subtracting them you take away near three million dollars, and almost one-third of the whole amount proposed to be raised. In Great Britain, where about $100,000,000 is annually raised from duties, more than one-half of this enormous sum is raised on three articles—tea, sugar, and tobacco—none of which is produced in Great Britain. It appears also that we consume more than five times as much coffee, per head, as

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the inhabitants of that country. But I have not time to dwell upon it.

I have a few words to say as to the form of the bill. Contrary to our tariff laws heretofore passed, it names the articles excepted from duty instead of those on which the duty is imposed. This would be impossible when specific duties are imposed, and can only be done when the duties are *ad valorem.* It is done in this case to prevent fraud. Experience has shown that where you name the articles on which duties are laid, there is a constant effort on the part of the foreign manufacturer to invent some new article and give it a new name, that can be imported free, and which may come in as a substitute for the dutiable article. This bill takes away all temptation to commit that fraud; for the article, unless excepted in the free list, must pay a duty.

I have one word to say as to the necessity of immediate action. If we do not act now, but postpone this indispensable revenue measure until the next session, and then mingle it up with the tariff, it is not at all probable it will become a law until a year from this time. A whole year will thus be lost, which is of vast importance where the fruits of a measure are so slow in coming to maturity, and the demand is so pressing. Nothing can be realized under this act after it takes effect short of three months, and half of it not short of six; and on teas, one of the most important articles, a year's credit may be given. I deem it, therefore, indispensable, unless we would disgrace the country and the Administration, and this act should be passed at this session, that an exhausted Treasury may derive some benefit from it next winter and spring, and not suffer it to be postponed a year longer.

I beg leave to say, in conclusion, that I hope this revenue measure will not be mingled up with questions of protection, home valuations, and cash duties. I hope all those important but perplexing questions will be postponed to the next session, when we shall have more time and more information, and may be in a better situation to dispose of them properly for the interest of all concerned.

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TEA AND COFFEE DUTIES.

July 26, 1841, on the bill "in relation to duties and drawbacks," it being proposed to amend by including tea and coffee among articles exempted from the operation thereof, Mr. Fillmore said:

He understood his friend from Pennsylvania [Mr. Lawrence] to say that the duties he proposed to strike out might be levied on other articles. The gentleman did not say what articles, but he referred to articles of luxury generally, and specified watches and jewelry. Now these articles had been taxed for years, and the policy of the Government had been to tax them to the utmost; but they were of such value, and so light and portable, that they were liable to be smuggled if a high rate of duty were placed upon them. In short, it would be impossible to prevent the smuggling of watches and jewelry and particularly of gold and silver and diamonds. It would defeat the object in view to impose a high duty on these articles, for it would give encouragement to the knave and injure the business of the honest importer. It had been found from practical experience, that a high duty could not be safely put on these articles. It was different, however, with tea and coffee. They entered into the general consumption of the country, and were so bulky as to present a formidable obstacle to smuggling. He did not see why tea and coffee particularly should be exempted while food and clothing were taxed; and a duty of 20 per cent would be so light on these articles as to be scarcely felt.

POWERS OF THE EXECUTIVE.

On the bill making further provision for the suppression of Indian hostilities in Florida (July 29th), Mr. Fillmore spoke, urging its reference to the Committee on Military Affairs. The subject of giving this power [to raise volunteer forces] to the President had been very much discussed at the last Congress. The President already had power, under standing laws, to call out the militia when he should

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deem it necessary, and the question was whether that power should now be so changed as to authorize the President to receive volunteers. He knew that this might create a great charge upon the Treasury, but he thought the bill should undergo consideration of a standing committee.

A DIPLOMATIC INCIDENT.

Discussion arose, August 5, 1841, over the fact that the French Minister had addressed a communication in regard to certain pending legislation, to the Secretary of the Treasury, instead of to the Secretary of State, the proper diplomatic channel for such communication. Mr. Fillmore spoke at some length, stating in detail the circumstances of the case, exonerating the French Minister from discourtesy. As the communication referred to commercial affairs, the French Minister, Mr. Fillmore presumed, had thought it should properly be sent to the fiscal officer of our Government. After further statement, the subject was tabled.

ON THE BILL TO ESTABLISH A UNIFORM BANKRUPT LAW.

On Monday, August 16, 1841, Mr. Fillmore spoke in substance as follows:

I had no expectation, until the introduction of the resolution this morning, to take this bill out of committee at 12 o'clock, that the debate was to cease so soon. I had intended to submit some remarks on the subject, but this morning others have been more fortunate than myself in catching the eye of the chair. We have now but twenty-five minutes left, and for this I am mainly indebted to my friend from Massachusetts [Mr. Saltonstall], and even this I must divide with my friend from Georgia [Mr. Dawson].

Under these circumstances, I can go into no constitutional questions, nor can I discuss the details of this measure. I can only say that I deem it one of great importance, and that I feel a great anxiety for its success.

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The labors imposed upon me as chairman of the Committee of Ways and Means have left little time to investigate this subject. But I have carefully gone through with the details of this bill, and I regret to say that I do not think it as perfect as I could desire.

The original bill introduced by Mr. Webster in the Senate, which has evidently formed the basis of this, was consistent in its provisions if not perfect in its details. I have understood from very good authority that that bill was the joint production of Mr. Webster and Judge Story. But amendments have been introduced in the Senate that have greatly marred its beauty and obscured its provisions. It is in some respects contradictory, and I think it will be very difficult to carry it into effect. Nevertheless, as it is now conceded on all hands that it is too late to attempt to perfect this great measure at this session, the question presents itself whether we will take the bill as it is, postponing its operation long enough after the commencement of the next session to enable us to correct any defects at that time, or adjourn without any legislation upon this subject. I cannot hesitate. I am for the bill as it is, rather than nothing. I take it "with all its imperfections on its head," rather than have no legislation on the subject. One great point is gained to the friends of this measure by the passage of this bill: It at least compels legislation on this subject at the next session. It is to me a subject of deep regret that our legislation at this time cannot be so perfect as to give ample and immediate relief to those for whose benefit this bill is intended. But as it cannot, the next best thing is to ensure it hereafter.

I know that this bill is imperfect, and in voting for it I mean simply to declare that I am in favor of a bankrupt law, and I hope every gentleman on this floor who is in favor of this measure will vote for this bill and trust to the next session to perfect it. We must make a beginning, and those who are looking for this relief have been tantalized with anticipation until "hope deferred has made the heart sick."

I hope before the bill goes into effect that whatever is obscure will be made clear, for I regard obscurity that leads

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MILLARD FILLMORE.

FROM A DAGUERREOTYPE, PROBABLY ABOUT 1842.

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to litigation a great evil. I hope also to see suitable provisions as to the insolvent laws of the several States, and especially do I hope to see all jurisdiction taken from the United States courts for the collection of debts due the bankrupt. Such a jurisdiction will prove an intolerable grievance. It will overwhelm the country with costs and litigation. . . .

CALLS FOR EXPORT STATISTICS.

August 22, 1841, Mr. Fillmore spoke in favor of necessary appropriations for certain diplomatic agencies. September 3d he offered the following, which was adopted:

Resolved, That the Secretary of State be required to report to this House, as soon after the commencement of the next session as practicable, a statement of the privileges and restrictions of the commercial intercourse of the United States with all foreign nations similar to that communicated to the Senate December 18, 1837 (Doc. 8, 1st sess. 26th Cong.), only changing the denominations of the foreign money, weight and measures into those of the United States, according to the custom-house entries of domestic exports, and adding columns showing the average amount and value of the articles exported to each country for the years 1838, 1839 and 1840, and of the duties on the same; together with a summary of the average aggregate value of exports to each country for those years, of articles the growth, produce or manufacture of the United States, with the average amount of duties thereon accruing to each country.

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ON THE BANKRUPT BILL

There was a stormy scene in the House, January 15, 1842, the Bankrupt Bill being under discussion. The journal of proceedings is a jumble of interrupted speeches and hot retorts. The Speaker quite lost control for the time being. When Mr. Cushing appealed from a decision, the presiding officer made the remarkable reply, "I expected it." Mr. Fillmore gained the floor and began to speak. "I have once witnessed a scene in this House," he said, "of even more violence than that which has taken place this day. I recollect when an effort was made"—

Here he was interrupted, his voice drowned by many cries. Finally he managed to make himself heard again. "I refer," he continued, "to the odious New Jersey case, when an effort was made on the part of the majority"—

Here he was again called to order and it was some time before he was able to proceed. He finally gained the consent and ear of the House, saying he would use milder language in relation to that precedent, if it was desired, although the country had long since pronounced its judgment upon it.

He desired to say in reference to that case, that it would be recollected by those who were members of this House, that a majority ordered a committee to report forthwith; that the committee, in obedience to that order, presented a report at the bar of the House, and asked leave to present it at the table. Objection was made; and, notwithstanding the strong party violence then pervading this hall, there was yet

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found independence and integrity enough here to sustain the rules of the House, and to prevent that report being made.

The report was retained in the possession of the committee three, four, or five days, before the committee was called in its order to make a report; and, till they were so called, it could not be made. The last report which was made in that case, just before the adjournment, was also attempted to be made at various times. It was suggested at that time that it was a privileged question, having reference to the seats of the members, although no effort was made to break down the rules; and although the speaker decided that it was not, yet an appeal was taken, the decision overruled, and the report made, but made upon the ground that it was a privileged question, and not upon the ground that it was within the rules of the House to make it out of order.

Was it necessary, he would ask, in a case like this, that this extraordinary proceeding should be had, and that the rules of the House should be broken to reach the object? He knew that the Bankrupt Bill was doomed in this House. He regretted that it was necessary that resort should be had to the Opposition here, by those who made this movement, to accomplish it in such great haste. He regretted that the House should suffer its rules thus to be broken down and trampled upon when the object was within the rules; and he called upon the members on all sides of this House to come forward now and sustain its rules and its character. If this decision of the Chair was to be sustained, all that was wanting when there was a wish to break down the rules, would be to introduce a resolution, to pass it by a majority, to make it imperative to act forthwith; and thus the whole order of business would be changed. Was the House prepared for this? We had passed through more violent scenes without doing it, and he called upon the House to pause before doing it now.

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SPEECH ON THE TARIFF BILL

The House of Representatives being in Committee of the Whole on the Tariff Bill June 9, 1842, Mr. Fillmore, as Chairman of the Committee of Ways and Means, who reported the bill, opened the debate with the following remarks:

Mr. Chairman: I regret that the time allowed the Committee of Ways and Means for the consideration of this important measure was so short, that they were prevented from submitting to the House a written report on the subject. Had time permitted, I doubt not that such a report, deliberately and cautiously prepared, would have been far more satisfactory to this House, and the country, than any undigested and brief explanation of mine. The truth is, the committee were so pressed for time on this bill, that no member of it had any which he could spare for the consideration of the general subject; but our whole time was necessarily devoted to the details of the bill, and we were compelled to sit from five to seven hours a day, besides attending the regular sessions of this House.

Every one must admit that the question under consideration is one of the greatest magnitude. Nothing of a purely domestic character, affecting more interests, and calculated to excite more universal feeling for or against it, could be submitted to an American Congress. It involves the exercise of the highest legislative power—that which compels the people at large, who have established this Government, to contribute the necessary means to sustain it, and provide for the common welfare and general defence of the nation. Surely nothing short of the questions of war and peace can

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be of more importance to this country than the mode in which we shall exercise this highly responsible and delicate trust of raising revenue for the wants of the Government. I am free to confess that the subject is so vast in extent, and so complicated and multifarious in its details, that I approach it with doubt and distrust of my own powers, and unfeigned regret that this duty has not been assigned to more able and experienced hands.

I regret that, on a subject of so much importance, neither the committee nor this House has been furnished with proper authentic information on which to base its action. Since the passage of the Compromise Act, in March, 1833, all had known that this time there must be a revision of our laws for the collection of duties; and yet, nearly ten years have been suffered to pass away without one step being taken, either by Congress or the Executive Departments of the Government, to collect well-authenticated facts, on which to base future legislation. All we have on the subject is the statistical information collected with the last census—as yet hardly published—and the reports annually made to Congress on commerce and navigation, showing the amounts of imports and exports, and the value of the articles at the custom-house, but wholly omitting to show the value of the articles in the principal markets of this country, or the amount produced here: all of which is indispensable to enable us to proceed correctly in revising this complicated and delicate system.

It is known to this House that, for the purpose of supplying this want of information, a resolution was moved by my honorable friend from Massachusetts [Mr. Winthrop]—I regret to say no longer a member of this body—for the appointment of a committee with authority to sit during the recess, and to send for persons and papers, that they might collect, on oath, the information so much wanted on this subject. All know the fate of that resolution, and the sources of opposition to it. I can only say, for myself, that I regret extremely that it is not adopted and the committee appointed; and I fear that this House and the country will

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also have cause to regret it. I care not from what quarter of the Union they might have come, or of what trade or profession the committee might have been composed, or whom they might have represented, whether manufacturers, merchants or agriculturists; one thing, certainly, would have been accomplished, and that of great importance: they would have collected and presented to this House and the country authentic information, obtained from practical persons, in all the various professions and occupations of life, showing the working of our present system of revenue laws, its defects and advantages; and on this we could have based our action in the revision of the tariff. But jealousy of a favorite interest here, and a long-cherished theory there, one of which might be injured, and the other exploded, by exposing them to the test of facts, prevented the appointment of that committee; and, for the want of the information which it could have given, we are now compelled to grope our way in the dark, and substitute conjecture and theory for fact and experience.

I do think we sacrifice more to favorite theories than any other nation in the world. From our course of proceeding, one would suppose that every man was born a legislator, and possessed all the requisite knowledge by intuition. How different the course pursued by Great Britain. Would it not be wise to imitate, in this matter, her caution, prudence, and sagacity? When she was about to change her tariff laws, an intelligent committee was appointed by the House of Commons, which called before it practical men, interested on both sides of the question, whose evidence was taken, laid before Parliament, and published to the world. Mr. Hume's celebrated report last year was the result of such an investigation. It is in these collisions of interest and intellect that you are to find truth—not in the fine-spun theories and unpracticed political economists, or of mere useless declaimers for popular effect upon this floor.

But, sir, what has been our course on this subject in this country? Why, for all political, commercial, and financial evils, some gentlemen on this floor maintain that free trade

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is the great panacea. It is with them the philosopher's stone: it would prevent revulsions in commerce, supply the wants of your Treasury, and promote the prosperity of the community. Others again, from other parts of the country, maintain that protection to home manufactures is the great desideratum, and the true remedy for all these evils. Each has his own peculiar theories, and adheres to them with the blindness of prejudice and the tenacity of self-interest—each omitting, if not unwilling, to investigate the facts on which his own cherished theory is based; and the thunders of popular commotion produced by the storm of nullification have hardly died away in the distance, when the horizon gives ominous signs that another storm is approaching, and that this House and the country are again to be agitated by a fierce and blind contest about mere abstractions, while truth is obscured by the smoke of the fight, and lost sight of by the contending parties.

Early in this session this subject, after a long contest, was committed to the able committee of this House on manufactures; but I regret that this House saw fit, after this subject was referred to that committee, to withhold from it some important powers to enable it to obtain the information now so much needed by the House. That committee was denied the power to send for persons and papers, and the assistance of a clerk to aid in the collection of indispensable facts. Notwithstanding all these discouragements, it is due to that committee to say that it went forward with diligence and energy, and collected many facts useful to the House and the country; but, nevertheless, falling far short of what ought to have been supplied, and would have been furnished, had the committee been appointed at the extra session, with permission to sit during the recess, and power to send for the persons and papers. I speak of this subject now "more in sorrow than in anger"—not by way of complaint or reproach, but because I feel most sensibly the want of the information which these committees might have furnished; and I doubt not that this House, before it has disposed of this subject, will also feel the want of that

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information, and unite with me in the deep regret which I have expressed that it was not obtained.

I trust I may also be permitted to add, by way of apology for any defects in the bill before the House, arising from a hasty action of the Committee of Ways and Means, that, while I impute no blame to any one for the delay that rendered this haste unavoidable, it is nevertheless due to the committee to say, that it did all in its power to avoid it. It was but too apparent, after this subject was referred to the Committee of Manufactures, that the House might expect some action from the Committee of Ways and Means; and as this committee had no time itself for collecting and arranging the necessary statistical information, it had to depend upon the Treasury Department to supply it. I had frequent conversations with the Secretary of the Treasury, almost from the commencement of the session, and understood from him that he was collecting information to lay before the House or the committee on this subject. The committee, having gone through with most of its laborious business on the appropriation bills, and not having received the desired information from the Department, did, on the 26th of February, direct its chairman to address a letter to the Secretary of the Treasury, calling on him for this information. This was accordingly done on that day; and, after waiting until the 29th of March without receiving a response, but instead of getting a gentle hint from the Executive that there was some neglect, the committee reported a resolution to the House, which was adopted, calling on the Secretary for the requisite information. Still the committee continued to wait with the utmost anxiety until the 9th of May, before the Secretary's report came in. In the meantime, the Committee of Manufactures had reported, and then only a little more than a month and a half remained before final action must be had on the subject, as it was thought no duties could be collected after the 1st of July, without further legislation. Thus it will be perceived that the committee had but a few days (during which they were required to attend the sessions of this House from five to six hours

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each day) to review and revise a measure that it had taken five months, with all the facilities and force of the Treasury Department, to prepare.

I speak not this by way of complaining of the Department. Far from it. I am satisfied that, in the present embarrassed state of the Treasury, the head of that Department has done everything in his power to collect and arrange the matters on this subject and lay them before this House, and that he could not accomplish it before; but I recite these facts with a view of vindicating the Committee of Ways and Means, not only from what I deemed some unjust and ungenerous attacks on this floor for delay in reporting this bill, but for any defects which may be found either in its principles or details. I much regret that the Secretary of the Treasury did not communicate to this House the information he had collected during the five months of the session before the report was made. Why it was withheld, I do not know. I presume it was not through any default in the head of that Department, but either because there was not time to arrange or abstract it, or because it was deemed unnecessary to communicate the mass of details on which the report and bill were based. I shall neither arraign the prudence nor discretion of the Secretary, yet I regret that the House and committee have not the benefit of that information, if it could be of any use in guiding them through this dark labyrinth. It is, nevertheless, due to the Department to say, that applications for information as to several parts of the bill were promptly and satisfactorily answered. Indeed, the Department kindly furnished to the committee the assistance of the gentleman, who, it was understood, had been chiefly instrumental in collecting and arranging the facts, and preparing the bill, under the supervision and direction of the head of that Department; and the committee derived essential aid from this gentleman. I therefore make no complaint of the Department, and, as I have often repeated, only state these facts by way of justification of the Committee, and by way of apology for any defects in the bill, arising from the want of more accurate information.

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Thus much in self-justification, and by the way of apology for the manner in which the bill has been presented for your consideration: not that I expect or desire to avert scrutiny, or because I hope to escape censure for any sins of omission or commission. Far from it: I have stated the disadvantages under which the committee labored, with a view to invite such an examination as shall detect errors, and correct them; and I have been too long a member of this House to suppose, for a moment, that, even if the bill were perfect, which it cannot be, the committee could escape censure. That is impossible. There will be an honest difference of opinion, and I shall be happy if our contests are limited to those differences.

I now proceed to the consideration of the bill itself, its design and object. It has been framed with a view of raising revenue to supply the wants of the Treasury, and I propose to consider it mainly as a revenue measure.

The first question, therefore, is: What amount of revenue is required to carry on the Government? For on this, in some measure, must depend the rate of duty imposed on every article in this bill. It is preliminary to all other questions, and should be first settled. In determining this, the opinion of the financial officer of the Government should have great weight, and I beg leave to call the attention of the House to his recent report to this House, submitting the project for this bill.[1]

From this it will be perceived that the Secretary estimates the ordinary expenses of the Government for each of the years 1842, 1843, and 1844, at $25,356,358.95, besides the liabilities of the Government for debts, Treasury notes, etc., which swell the amount some seven or eight millions more for each of those years, making the total required for the three years $98,242,953.73.

The debts and other liabilities mentioned may be easily and certainly calculated, as their amount is known and must

1. Mr. Fillmore here submitted a comparative estimate of expenditures for 1842, 1843 and 1844, under the various heads of civil, foreign intercourse, military and naval, redemption of Treasury notes, etc., etc. For the purposes of his argument, his own summary will suffice.

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be paid; but not so with the ordinary expenses of the Government. They vary from year to year, and will depend much on the administration of affairs. It may not, however, be expedient to recur to the past to enable us to judge of the future. Indeed, experience is the only true test in these matters. I therefore call the attention of the House to Document No. 31, furnished to this House at the extra session from the Treasury Department, and at page 26 of that document you will find the following statement of disbursement, during the four years of Mr. Van Buren's Administration, for the ordinary expenses of Government, viz.:

In 1837	$31,610,003 09
In 1838	31,544,396 19
In 1839	25,443,716 94
In 1840	22,389,356 31
Total	$110,987,472 53
Being an average per year of	$27,746,868 13

If this past experience affords a guide for future action, we may calculate that the annual expenses of the Government hereafter will be between $27,000,000 and $28,000,000 independent of the amount necessary to be raised for the public debt now existing; but I trust that we shall hereafter have more economy in the administration of public affairs, and that we shall not only expend less, but make a more beneficial application of what we do expend.

But there has been much discussion on this subject, both in this House and in the other, and some of the oldest and ablest statesmen in both branches have gone into laborious and ingenious investigations to show the probable expenditures hereafter. Their results, varying from $18,000,000 to $26,000,000, show how difficult the task is, and how little reliance can be placed on their estimates. Where so much must be left to conjecture I shall not attempt to follow them.

For the indications which we have seen here for a few days past, one might infer that a spirit of retrenchment had come over this House, and that the army and navy are to be

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greatly reduced. However I may regret the inconsiderate haste with which those acts were perpetrated, which, to my mind, savored more of destruction than judicious reform, yet it must be admitted by all, if the Senate concur with this House in those measures, the annual expenditures of Government will be diminished. Taking all these things into consideration, I am willing to assume the ordinary expenses of Government will, for some years, if peace continue, be reduced some $3,000,000 or $4,000,000 annually; and, if so, we may reasonably calculate that they will not exceed about $24,000,000, and may probably come as low as $23,000,000; but this is rather to be desired than expected. But allowing $24,000,000, which I think is the safest estimate, and add to that $3,000,000 to pay the interest on the public debt and provide a sinking fund for the ultimate payment of it, and you will require an annual revenue of $27,000,000 to meet the demands upon the Treasury. I shall therefore assume that the amount must be provided.

This being the amount, the next question is, how shall it be raised? In what mode can these $27,000,000 be supplied to the National Treasury with least inconvenience to the people?

Let us turn to the great charter whence all our power is derived, and see what that says. The very first grant of legislative power in the Constitution is an authority to supply the requisite revenue to carry on the Government. The 8th section of the 1st article of the Constitution is in the following words:

> "The Congress shall have power to lay and collect taxes, duties imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States."

There is the grant of power by which the Treasury is to be supplied. We can take our choice from three modes, and three only. First, we may lay a direct tax; or, secondly, we may lay excises; or, thirdly, we may lay duties or imposts. Now, to which shall we resort? We must select one, as no other power is given, unless it be to borrow money; and

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none will think of that for the ordinary wants of the Government.

If I recollect right, when we last had this subject under consideration, an honorable gentleman from South Carolina [Mr. Rhett] suggested that the best mode of supplying the wants of the Treasury was by direct taxation. The suggestion had a very good circulation in the country, and, it seemed to me, appeared, without much consideration, to find some favor in this House. That we have the power to supply the Treasury by direct taxation none can deny; but is there any gentleman here who will risk his reputation as a statesman and a financier by insisting that we should resort to direct taxes under any circumstance short of the direst necessity? We have tried this system once, nay, twice; and I hope that honorable gentlemen who indicate a willingness to resort to it again, will at least look into the legislation on this subject before they attempt, for a third time, a system that has heretofore proved so signal a failure.

As early as 1798, when, I believe, we were under a little apprehension of war, and had a heavy debt pressing upon us, and an inadequate revenue, a law was passed directing a valuation of real property and an enumeration of slaves, with a view to lay a direct tax; and, by another act, the same year, an annual tax of $2,000,000 was directed to be raised. Any gentleman now disposed to go into this system for raising money would do well to look into these voluminous acts, and their minute details, and see the complicated machinery which it is necessary to put in motion, and the frightful hoard of officers it spreads through the country to return the valuations and collect the tax. Act was piled upon act to supply deficiencies, until 1802, when the law authorizing the tax was finally repealed. This law was in force long enough to have produced $8,000,000, and yet, up to 1813, when the second law was passed, the whole amount realized to the Treasury was only $1,761,047.36, being about one quarter of the sum which it directed to be levied.

During the last war, when our revenue from imposts was much diminished by the interruption of our commerce, and

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our expenses greatly augmented, another attempt was made to raise money by direct taxation. New valuations and assessments were provided for; and, in August, 1813, an Act passed directing $3,000,000 to be raised by direct tax, which was apportioned out even to the several counties throughout the United States. On the 9th of January, 1815, another long act was passed increasing the amount to $6,000,000 annually. In March, 1816, after the close of the war, this last Act was repealed, and the tax reduced to $3,000,000 for that year. The whole amount collected under these last acts, up to 1840, was only $10,983,690.20; and I believe that no attempt has since been made to lay a direct tax. No one can be aware of the tremendous addition that would be made to Executive patronage by this enormous increase of officers. They would be spread over the land, like the frogs of Egypt, until they would be found in every man's bedchamber.

If gentlemen will take the trouble to look into the annual printed account of receipts and expenditures for 1840, at page 242, they will find a tabular statement of all the money received into the Treasury, from every source, from the commencement of the Government upon the present Constitution, on the 4th of March, 1789, up to and including the year 1840. The whole amount received from all sources, except loans, was upwards of $900,000,000. And from what sources do you suppose this vast amount was drawn?

[Mr. Foster, of Georgia, was understood to inquire if the amount collected by direct taxation was included in the statement of the gentleman?]

Mr. Fillmore: I speak of the whole amount collected from the commencement of the Government down to 1840, inclusive, for the purpose of paying the debts and defraying the necessary expenses of the Government. During that time, there have been periods when the ingenuity of man was taxed to its utmost to devise ways and means for supplying the Treasury; and the history of our Government for more than fifty years is worthy of consideration on a

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subject like this. I will therefore give you the sources whence this immense amount was received. They are as follows:

From customs or duties	$746,923,302 20
From excise or internal revenue	22,265,242 06
From direct taxes	12,744,737 56
From postage	1,092,227 52
From the public lands	109,314,223 69
Dividends and sale of bank stock and bonus	20,839,977 75
Making a grand total of	$913,179,710 78

[Mr. Rhett wanted to understand if the gentleman, in speaking of what was called direct taxation, included all that had been collected by the post-office, or merely direct taxation during the last war.]

Mr. Fillmore: I have not taken the ordinary receipts into consideration, regarding that as an independent Department, supplying its own means to defray its own expenses. I am not aware that the Post-Office Department has generally been looked to as a source of revenue.

It appears, from the statement to which I have referred, that, for many years after 1793, that Department yielded a small revenue to the Treasury, and, if I recollect right, a law was passed during the war increasing the rate of postage fifty per cent. for the benefit of the Treasury. The whole amount received, however, was comparatively small, being only a little over $1,000,000, from the commencement of the Government.

You perceive, then, from this statement, that the great amount of our revenue from the commencement of the Government has been derived from duties on goods imported. Nearly $747,000,000 of the whole amount have come from that source. A little over $22,000,000 from excise, and a little upwards of $12,000,000 from direct taxes. From the public lands, over $109,000,000, and from dividends of bank stock, etc., more than $20,000,000, being $8,000,000 more from this "odious monster," a United States bank,

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than from all our direct taxes, and almost as much as was ever derived from excise duties. I merely allude to these results for the purpose of showing that the experience of more than fifty years would seem to demonstrate that direct taxation is not the mode by which revenue can be raised to meet the wants of the Treasury.

But, it may be said, if direct taxes will not answer, try excises. Raise the necessary amount by excises. Let us understand what is meant by excises. I understand excises to be a duty levied upon our own products and manufactures; whereas duties and imposts are levied upon goods imported from foreign countries. One is a tax upon our own labor, the other upon the labor of foreigners; and, though both may in part fall upon the consumer, yet all of one is paid by our own citizens, and part of the other falls upon the foreign producer or manufacturer. I am therefore surprised that this mode of raising revenue finds advocates anywhere in time of peace, when the requisite amount can be supplied by imposts. I fear, gentlemen have not well considered this subject. Let them look through the financial reports and legislation on this subject, from the commencement of the Government down to this time, and then see if they are prepared to recommend excises in time of peace. The name of excise has long been odious in Great Britain, a nation that has long been inured to taxation in every form that human ingenuity could devise. The name was so odious that it has never been introduced into the legislation of this country. Though a duty in the shape of excise was early recommended by Alexander Hamilton, and authorized by law, yet he felt the odium attached to the name, and adroitly changed it, and called it "Internal Revenue"; and by this name have these duties always been known to this country. Tell me not now "there's something in a name," or that "a rose by any other name would smell as sweet." I tell you the offensive odor attached to an unpopular object is often changed by the mere change of name.

Let us for a moment turn our attention to the history of these excise duties in the country whence we derived them.

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What does one of Great Britain's own subjects say? I read from McCulloch's "Commercial Dictionary"; and first let us hear his definition. He says:

"Excise, the name given to the duties or taxes laid on such articles as are produced and consumed at home. Custom duties are those laid on commodities when imported into or exported from a country."

There is the distinction to which I before alluded. One consequence of the imposition of excise duties is, that we shall have a swarm of officers pervading every part of the country to examine who are engaged in the manufacture of any article liable to excise duty. To prevent evasion and fraud, searches must be made, which are odious to our people. Another evil is, a complication of legislation, which leads to frauds and endless litigation. If we impose duties upon the manufactures of our own citizens, we prevent them from competing fairly in the markets of the world with foreign nations. To avoid this, these duties must be refunded whenever the goods are exported. This is the practice of Great Britain; and, as a necessary consequence, there must be an examination, at every port, to see if the goods have paid excise duties, that they may be refunded. This drawback offers a strong temptation to defraud the Treasury, by evading the payment of excise, and yet claiming the drawback on exportation. If these frauds are common in Great Britain, where the population is dense, and almost every man is under the eye of a revenue officer, what may we not anticipate here, where our population is thinly scattered over an immense territory, offering facilities for frauds which no official vigilance could prevent or detect?

Another difficulty grows out of these excise duties in England, and that is, to determine precisely the amount to be repaid. The excise may be paid on the article in a raw or unmanufactured state. The drawbacks are to be refunded on the manufactured article, or, perhaps, on the article combined with some other material. Take, for instance, glass, for illustration. The law imposes an excise

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duty on the article when manufactured, and allows a drawback when exported. It would seem from the law that the amount of excise paid upon the articles manufactured was about three cents per pound less than the drawbacks paid on exportation; thereby paying a bounty out of the Treasury on the exportation of the article.

I will give you another instance that illustrates the same principle; though the duty paid is an impost instead of an excise duty, yet, the drawback on exportation is the same, and calculated in the same manner. It is refined sugar. Some intelligent gentlemen engaged in refining sugar in this country came before the committee, and asked for higher duties, saying, that the sugar refiners of England could export the refined article at six cents per pound, while the raw material for each pound of refined sugar costs eleven cents. I told them there must be some mistake. No such trade could exist for any length of time, as no man could afford to buy the raw material for eleven and sell for six, especially when you added the labor of refining, and expense of transportation. But there was an explanation, in part growing out of these duties and drawbacks. The law imposed a certain duty on the raw article imported, and allowed a certain drawback on the article exported. A suspicion arose that the drawback exceeded the duty, and the law was finally changed, so as to require the importer to give security that the sugar imported should be exported, and then he paid no duties and received no drawbacks; in other words, the sugar was refined in bond; and the consequence was, that out of sixty-five sugar refineries in London, only four continued their operations under this law; thereby showing conclusively that the drawbacks exceeded the duty. It is true that, in this case, there was another thing to be taken into account. The refiner had the benefit of the residuum, or molasses, which remained after the refining process, on which he paid no duty, and which brought a high price, in consequence of the high duty on molasses.

These are some of the illustrations of raising revenue by excise; but, as I said when I was diverted from the subject,

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I will read a brief history of excise duties from McCulloch. He says:

"Excise duties were introduced into England by the long Parliament in 1643; being then laid on the makers and venders of ale, beer, cider, and perry. The royalists soon after followed the example of the republicans; both sides declaring that the excise should be continued no longer than the termination of the war. But it was found too productive a source of revenue to be again relinquished; and when the nation had been accustomed to it for a few years, the Parliament declared, in 1649, that the 'impost of excise was the most easy and indifferent levy that could be laid upon the people.' It was placed on a new footing at the Restoration; and, notwithstanding Mr. Justice Blackstone says that, 'from its first origin to the present time, its very name has been odious to the people of England,' (Com. book i. c. 3,) it has continued progressively to gain ground, and is at this moment imposed on a variety of most important articles, and furnishes nearly half the entire revenue of the kingdom."

Thus you have the history of excise duties. They originated with the long Parliament which was afterwards dissolved by Cromwell. Both parties promised to abolish them at the close of the war. We need hardly be told by Blackstone that, from their origin to the present time, their name has been odious. Yet they have been continued in Great Britain, and must be; for there every source of revenue has been exhausted, and every mode of taxation resorted to which ingenuity could invent to raise the necessary means for carrying on an expensive Government, and paying the interest upon their enormous public debt. And, finally, the recent proceedings in Parliament show that they have been compelled to adopt the war measure, and tax incomes to supply the deficiency.

But I trust the necessities of such a nation are not to furnish precedents for us. Direct taxes and excises may be necessary and unavoidable in time of war, but those who would resort to them in time of peace would do well to read the legislation and reports on these subjects, and especially a report made by Mr. Randolph, in 1802, as Chairman of the Committee of Ways and Means, in which he states that the

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expenses of collection are more than one-fifth, or twenty per cent.; that the duty is oppressive and vexatious, and peculiarly obnoxious to our citizens; that the nature of excise is hostile to the genius of a free people, and its tendency is to multiply offices and increase the patronage of the Executive; and he finally recommends a total repeal. If other evidence was wanted that excise is odious to our people, it may be found in the insurrection of Pennsylvania against this very tax. With all these facts staring us in the face, is there any one here so bold as to propose excise duties on our own manufactures, to supply the necessary means of carrying on the Government? If not, what remains? Nothing but the duties and imposts; and to lay these duties is the object of the bill upon your table. This being the only remaining mode authorized by the Constitution, I deem it unnecessary to go into any argument to show that it is the best mode. All our experience proves that fact, and I owe an apology to the House for having occupied so much of its time in showing the objections to direct taxes and excise duties.

The next question is, will this bill, if it becomes a law, supply the wants of the Treasury? Is it sufficient? Here I take the liberty of stating to the House that the bill is, in substance, the project that came from the Secretary of the Treasury. Although the Committee of Ways and Means have changed many of its details, sometimes increasing and sometimes reducing the rate of duty, as they thought most likely to increase the revenue; and although they have added some important provisions to secure to the States their just interest in the proceeds of the public lands, and to obtain valuable statistical information for future legislation on this subject; yet the main features of the bill are as they came from the Secretary, and it will probably produce about the amount of revenue contemplated by that *project*.

What, then, will this bill produce? For the purpose of estimating the probable amount, the Secretary of the Treasury has taken the importations of 1840, and calculated the amount of duty prescribed by this bill on every article imported, and the result shows a gross amount of $32,603,-

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335.27, from which deduct drawbacks, etc., and expenses of collection, amounting to $5,160,000, and it leaves a net revenue, applicable to the ordinary expenses of Government, of $27,443,335.27.

Here I would remark that the Secretary has made his estimate of drawbacks in gross. It would have been more satisfactory to me, and I doubt not it would be so to the House, had he given the amount of exports of each article on which drawbacks were allowed: not that it is necessary to show the amount of revenue, for the gross amount of drawbacks deducted show that; but it is important to show whether any article was imported for consumption, or was again exported for drawback. I doubt not the House is aware of the rule that allows goods imported beyond a certain amount to be exported; and, when exported, the amount of import duty which they paid is refunded in drawbacks. Hence it is not only necessary to know the amount imported, but the amount exported, of any article, to know whether the duty is too high to permit it to be imported for consumption; and hence, also, an estimate of duties based upon our imports, without taking into consideration our exports of the same articles, forms no guide for ascertaining the amount of revenue. Thus we may, for any given year, have importations that show an apparent amount of revenue equal to $50,000,000, and yet, when we come to deduct the exportations and consequent drawbacks, it may be reduced to $30,000,000.

Although the Secretary has estimated that this bill will raise $27,000,000 and upwards, yet I am satisfied, on a close examination, that it cannot be relied on to produce that amount. In the first place, I am prepared to concede that the Secretary has selected a year when the importations were below the average for the last seven years. His estimates are based upon the importations of the year 1840, which were, in round numbers, only $107,000,000, while the average importations for seven years, from 1834 to 1840 inclusive, were $141,000,000; and yet, notwithstanding the great disparity between the year 1840 and the average of

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those seven years, I am satisfied that the Secretary's bill cannot be relied on to produce the requisite amount of revenue for each year. For a succession of years it may, and doubtless will, produce the amount which he estimates.

One reason why the average of the seven years is so great, and so much above that of 1840, is in consequence of the excessive importations of 1836 and 1839, they being, in those years, nearly double what they were under ordinary circumstances.

[Mr. Fillmore here introduced tables showing imports by years from 1834 to 1840 inclusive, with value of portion admitted free, value of portion on which duties were paid, total values, and average value for each year of the period named. The aggregate value of imports for the seven years was $990,337,381, the valuation of goods on which duty was paid being but $488,239,195.]

It is unnecessary to advert to the causes of these excessive importations. They vary much from year to year, and doubtless that in 1836 was caused in part by the great fire in New York, that destroyed immense quantities of goods, causing a deficiency that had to be supplied by fresh importations. But another cause of excessive importations during all these years is, that more than half came in free of duty. It cannot be supposed that the importations will be so great when goods are subjected to duty. It should also be borne in mind that, during most of the time, the currency was greatly inflated, prices were high, offering a strong inducement to import, and leaving a heavy debt due abroad, that must be met by our exportation before our importations can again equal these amounts. All these things should be taken into the account in estimating the amount of revenue which this bill will produce.

I therefore conclude, that although the Secretary has taken a year, below the average of the seven years, yet even that has furnished a higher amount of importations than we can rely upon annually, for the reasons which I have men-

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tioned. I believe all will concede that, for the present, and probably the next year, there must necessarily be a great depression in trade, and that our importations must unavoidably fall off. Hard times have made people economical—luxuries have been retrenched and necessaries supplied with provident care—and it must be some time before we can expect or desire such excessive importations as we have had for several years past.

But for a series of years I think we may rely upon this bill producing, on an average, about $27,000,000 annually. Yet, after all, any person who will look over the past years, and see how the revenue from customs varies, must be satisfied that we cannot calculate with any certainty for any particular year. All we can rely upon is a general result for a series of years. The deficiency of one is supplied by the excess of another, and so *vice versa,* each compensating the other. The amount has varied, within a few years past, from $13,000,000 to $24,000,000. Assuming, then, that this bill will only produce from $25,000,000 to $27,000,000, it seems to me there is an end of the question, unless some gentleman can show that the duty on any particular item should be increased or diminished with a view of adding to the amount of revenue. It is unnecessary to talk about levying duties for protection. If it is not expedient to resort to direct taxation or excises to supply the Treasury, then we have no alternative but impost duties, such as this bill proposes to lay, and protection to a reasonable extent becomes an accident which need not be sought, for it cannot be avoided. It results as an inevitable consequence from a necessary and unavoidable act, and the bill becomes, as it was designed to be, a revenue bill, and a revenue bill only.

Although this is the view which I am disposed to take of this bill, and although I am willing to listen to any amendments to add to or diminish the duty on any article, with a view of increasing the revenue, yet I have no disguise of my own sentiments on the subject of protecting our own industry. I am free to admit that I am not one of those who either feel or profess to feel indifferent to our own inter-

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ests. I prefer my own country to all others, and my opinion is that we must take care of ourselves; and while I would not embarrass trade between this and any foreign country by any illiberal restrictions, yet if, by legislation or negotiation, an advantage is to be given to one over the other, I prefer my own country to all the world besides. I admit that duties may be so levied, ostensibly for revenue, yet designedly for protection, as to amount to prohibition, and consequently to the total loss of revenue. I am for no such protection as that. I have no disguise of my opinions on this subject. I believe that if all the restrictive systems were done away with, here and in every other country, and we could confidently rely on continued peace, that would be the most prosperous and happy state. The people of every country would then produce that which their habits, skill, climate, soil, or situation enabled them to produce to the greatest advantage; each would then sell where he could obtain the most, and buy where he could purchase cheapest; and thus we should see a trade as free among the nations of the world as we now witness among the several states of this Union. But however beautiful this may be in theory, I look for no such political millenium as this. Wars will occur until man changes his nature; and duties will be imposed upon our products in other countries until man shall cease to be selfish, or kings can find a more convenient mode of raising revenue than by imposts.

These, then, form the true justification for laying duties in a way to protect our own industry against that of foreign nations: First, a reasonable apprehension of war, for no nation can always hope for peace. If, therefore, there is any article that is indispensably necessary for the subsistence of a nation, and the nation can produce it, that nation is not independent if it do not. If it is necessary, the production should not be encouraged by high duties on the imported article. This should be done, not for the benefit of persons who may engage in the manufacture or cultivation of the desired article, but for the benefit of the whole community: what though each pays a little higher for the article in time

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of peace than he otherwise would, yet he is fully compensated for this in time of war. He then has this necessary, of which he would be wholly deprived had he not provided for it by a little self-sacrifice. We all act upon this principle individually; and why should we not, as a nation? We accumulate in time of plenty for a day of famine and distress. Every man pays, from year to year, a small sum to insure his house against fire, submitting willingly to this annual tax, that, when the day of misfortune comes, if come it shall, the overwhelming calamity of having all destroyed may be mitigated by receiving back from the insurer a partial compensation for the loss. It is upon the same principle that we maintain an army and a navy in time of peace, and pour out millions annually for their support: not because we want them then, but because it is reasonable to apprehend that war may come, and then they will be wanted; and it is a matter of economy to provide and discipline them in time of peace, to mitigate the evils of war when it does come. The same reason requires us to encourage the production of any indispensable article of subsistence. I shall not now stop to inquire what these articles are. Every one can judge for himself. But that there are many such no one can doubt.

But, secondly, there is yet another case where I hold that we are not only justified but required to encourage and protect our own industry; and I regret to say that this is a case which, for obvious reasons, always has [existed] and I fear always will, exist: it is where foreign nations, by their own legislation, exclude our products from their markets. We are an agricultural nation, occupying one of the broadest and most fertile tracts of country in the world. The South produces sugar, cotton, rice, and tobacco, and the North and West produce beef, pork and bread-stuffs. It appears, by the last census that we have 3,717,756 persons engaged in agriculture, and only 791,545 in manufactures and trades, being near five to one employed in agriculture. Our lands are cheap and our soils productive; but if other nations prohibit the introduction of our agricultural products

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to their markets by high duties, what is our remedy? We want their manufactures; we offer them our bread-stuffs in exchange; but they refuse to receive them: what shall we do? I say, meet restriction by restriction. Impose duties on their manufactures, and thereby encourage a portion of our own people, now raising wheat and corn to rot in their granaries, to engage in manufactures: thus lessening the amount of agricultural products, by converting a part of your producers into consumers, thereby creating a home market for your agricultural products, and thus raising their price. Is not this just? Great Britain has no right to complain that we meet restriction by restriction. We offer her our flour, pork, and beef for her iron, cloths, and other manufactures. She refuses our products, and draws upon our specie, crippling our banks, deranging our currency, and paralyzing our industry. We must protect ourselves, create and preserve a market for our own products, until she will consent to meet us on equal terms; and this, not by way of retaliation, but in self-defence.

But it may be said that this protection is given for the purpose of benefiting those engaged in manufactures. I am wholly opposed to legislating for one part of the community at the expense of another. All are equally entitled to our protection; and, if duties are so levied as to protect any particular manufacture, it must be because the nation has an interest in encouraging it, and not for the benefit of those engaged in it. It is all idle to think of benefiting any particular class by protection. This can only be done by giving a monopoly to a few individuals. No monopoly can be created by laying duties. If the duties raise the price so high as to tempt the persons to engage in the manufacture, every one is at liberty to do so, and the consequence usually is, that so many engage that they soon compete with each other, and, instead of its being profitable to themselves, they cheapen the article to the consumer, while the manufacturer makes little or nothing. I say, therefore, again, that it is all idle to talk of protection for the benefit of particular classes. It should never be given but for the benefit of the com-

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munity; and, if designed for any other object, an overruling law of trade, as I have shown, will inevitably defeat that design.

But I take a distinction between the encouragement and protection of manufactures. It is one thing for the Government to encourage its citizens to abandon their ordinary pursuits and engage in a particular branch of industry, and a very different thing whether the Government is bound to protect that industry by laws similar to those by which it encouraged its citizens to embark in it. In the first case, there is no obligation on the part of the Government. Its act is entirely voluntary and spontaneous. It may or it may not encourage the production or manufacture of a particular article, as it shall judge best for the whole community. Before attempting it the Government should weigh well the advantages and disadvantages which are likely to result to the whole, and not to the particular class which may be tempted to engage. If a particular branch of industry is so important in its bearings upon the public wants, on account of its providing in time of peace for some necessary article in time of war, then, as the strongest advocates of free trade themselves admit, the Government may and should legislate with a view to encourage its establishment; and so, likewise, if it be necessary to provide a home market for our products in consequence of the prohibitory duties levied upon them by foreign countries. But all these are questions to be decided according to the circumstances of each particular case; and, as I said, the decision should be made with a view to the benefit of all and not of a few, or of any particular class or section of the country. But when the Government has decided that it is best to give the encouragement, and the citizen has been induced by our legislation to abandon his former pursuits, and to invest his capital and apply his skill and labor to the production of the article thus encouraged by Government, then a new question arises, for another party has become interested, and that is, whether we will by our subsequent legislation withdraw our protection from the citizen whom we have thus encouraged to em-

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bark his all in a particular branch of business for the good of the public, and overwhelm him with ruin by our unsteady, not to say perfidious, legislation. I can consent to no such thing. It seems to me to be manifestly unjust. Our act in the first instance is free and voluntary. We may give the encouragement or not; but, having given it, the public faith is to a certain extent pledged: those who have accepted our invitation, and embarked in these new pursuits, have done so under the implied promise on our part that the encouragement thus given should not be treacherously withdrawn, and that we would not tear down what we had encouraged them to build up. This I conceive to be a just, clear and broad distinction between encouragement before-hand and protection afterwards. The former is voluntary, depending wholly upon considerations of public policy and expediency; the latter is a matter of good faith to those who have trusted to the national honor.

These are my views on the subject of encouraging and protecting home industry by legislation; not that I deem them of any importance to the bill under consideration, for I regard this as a revenue bill and to be passed and justified on that ground. I do not deny that the effect will be to encourage and protect home manufactures, and thereby create a home market for our agricultural products, and others as well as myself may vote for it the more willingly on this account; yet all this is a mere incident of raising revenue by imposing duties on goods imported. It depends not on design or intent: it results as a necessary and inevitable consequence. We cannot avoid it if we would. If we impose a duty of one dollar on every yard of cloth imported, the duty is laid, not to increase the value of the cloth, and thereby protect the home manufacturer, but to supply the wants of the Treasury; yet, as a consequence, it encourages and protects the home manufacturer, and we cannot avoid it. No human foresight can prevent it; no ingenuity can avoid it; and, indeed, no design can aid it. Intention has nothing to do with the matter.

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Whether we discriminate for the protection of home industry or not, it must be apparent to all that some discrimination is necessary, even for the purposes of revenue. I am, therefore, surprised to see the amendment of my friend from Georgia [Mr. Habersham], which proposes a horizontal duty upon all articles imported of about twenty-five per cent. *ad valorem.* This not only disregards all the interests of our own country, but seems to set at defiance the immutable laws of trade. It seems to contemplate that you can collect as high a duty upon diamonds, or a gold watch, as you can upon a cargo of iron or mahogany. But a moment's reflection must satisfy any one that it is impossible to collect a high duty on articles of great value and small bulk. Take, for example, a watch, or the minuter parts of watch machinery. They are so easily concealed about the person, in a way that you cannot discover them without an indecent search, that when the duty is high it offers so strong a temptation, with so slight a chance for detection, that they will be smuggled, and you get no revenue at all. Hence, on small articles of great value, the experience of all nations has concurred in imposing a light duty to take away the temptation to smuggle. Great Britain imposes no duty, and France but a nominal one, on diamonds; and yet both these nations lay high duties where they can, both for protection and revenue. The same observation is applicable to jewelry and laces, and many other articles of luxury. I regret that it is so. Great injustice grows out of it. I should like a heavy duty on these articles of luxury, for those who use them are able to pay. But we are overruled by a law above all human legislation, and we are compelled to submit. A high duty but aggravates the evil. It drives the honest importer out of business. He cannot compete with the lawless smuggler. No revenue is collected. Whatever is paid by the consumer goes into the pockets of the smuggler, and thus you tax the community to reward crime and encourage a violation of law.

There is a further necessity for discrimination; and this, I suppose, will be strongly urged by the anti-protection men.

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It arises from the fact that the article on which you impose the duty can be produced as cheaply, or nearly as cheaply, in this country as in any other. In such cases a small duty becomes prohibitory. Take for instance raw cotton or flour. We produce more of these articles than we consume. They can hardly be imported without duty, and a very small duty is entirely prohibitory; and when we become a manufacturing nation it will be so with regard to all our manufactures. Great Britain has reached this point; and hence we witness the strange phenomenon of Sir Robert Peel, as the leader of the British House of Commons, declaring himself in favor of free trade, and against the imposition of any duty on manufactures over twenty per cent. And why is this? Simply because Great Britain manufactures more than she wants for her own consumption. Any duty, however high, is merely nominal, as nothing can be imported; and no duty affords any protection in the foreign market, where she has to meet and compete with all the world. The truth is, she has practiced the protective system so long that her home market is supplied by her own manufactures, and now, forsooth, she pretends to great merit in reducing duties which she can no longer collect. But mark the caution with which Sir Robert Peel speaks of the duty on sugar. He declines explaining why he does not recommend a reduction of duty on that article. Is not the reason obvious enough? The climate of England is too cold to produce that article. No duty, however high, can operate as a prohibition so long as people will use it; and it may therefore be taxed to almost any extent for revenue. This, doubtless, is the true reason why the duty is not reduced. Mr. Hume, in his celebrated report on the British tariff, made last year, states a curious fact on this subject, which, as it goes to confirm the truth of my argument, I beg leave to bring to the notice of the House. He says the whole amount of revenue received from customs in 1840, was £22,962,610, and that more than one-half of this was derived from three articles, neither of which was or could be produced in England, namely,

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Sugar and molasses	£ 4,826,917
Tea	3,658,763
Tobacco	3,495,686
	£11,981,366

being more than 500,000 pounds sterling over half of the entire revenue, from duties on imports. Could these be produced at home, does any one suppose they would not be when subjected to a duty that increases their price—as is the case of tobacco—to ten times their original cost? Certainly they would! It is only because the Ministry know that these articles cannot be produced at any premium, and that a vitiated taste of luxury will have them at any price, that they continue to tax them so enormously. Thus you perceive that there must be a discrimination even for revenue between those articles which we cannot produce and those which we can. One will bear any duty that does not raise its price too high for consumption, or tempt to smuggling. The other will not bear a duty so high as to raise the price much above what it will cost to produce it in this country; for, in that case, it will be produced here, and importation and revenue must cease. The true theoretical point at which duties should be laid on articles imported which we can produce is, to raise the price of the foreign article just to the point at which it can be manufactured in this country, that both may compete together in our markets. If it were possible in practice to reach this point, our importations and manufactures would then cease to fluctuate; we should obtain the greatest amount of revenue for the Treasury; and the competition would reduce the article to the lowest price to the consumer. I admit the difficulty of doing this in practice, not only for want of accurate information, but because the value is constantly changing; nevertheless, I conceive the doctrine theoretically correct, that such a point must exist, and our efforts should be to approximate as near it as possible. I therefore conclude that no duty in this bill is too high, unless it amounts to prohibition, or will induce

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smuggling, or is unnecessary to raise the amount of revenue required to supply the wants of the Treasury. If it can be shown that there are any such duties, as I doubt not there may be some, then I shall cheerfully go for reducing them to the true standard which I have indicated.

[Mr. Roosevelt here inquired whether there was no duty in this bill so high as comparatively to diminish the amount of revenue, so that lowering the duty would augment the result?]

Mr. Fillmore: It is possible that there may be; but if there be I am not aware of it. As I said before, the committee has acted upon imperfect information—in some cases far from being satisfactory; and, therefore, I can only repeat that if there be any such case, point it out, produce the proof, and I am ready to vote to reduce. But let me not be misunderstood. While I am willing to reduce to increase revenue, I am unwilling to so reduce any duty as to glut the market with the foreign product and break down our own manufactures, and thus compel our citizens to purchase all from abroad at any price the foreigner may see fit to demand. I am opposed to this, but I am for graduating the duty so as to keep up competition and keep down prices. This I conceive to be the only true course for supplying the National Treasury, and protecting those who buy as well as those who produce.

As an additional evidence that this bill should be considered only as a revenue measure, I beg leave to call the attention of the House to a few statistical results. They are results merely, as I shall not detain or weary the House by going into details. They are unnecessary for the purposes of my argument. Permit me to call your attention to the amount of revenue realized under the act of 1832, as modified by the act of March 2, 1833, usually called "the compromise act." This last act, it will be recollected, required one-tenth of all duties over 20 per cent. to be deducted on the 1st of January, 1834; one-tenth more on the 1st of January,

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1836; one-tenth more on the 1st of January, 1838; one-tenth more on the 1st of January, 1840; three-tenths more on the 1st of January, 1842; and three-tenths more on the 1st of July, 1842.

The first reduction, therefore, took place on the 1st of January, 1834; and if any one will look at the amount received from customs since that time, he will find that in no case, save in a single year, has the revenue received from that source equalled the expenditures of the Government. One year (1835) when the receipts were large and the expenditures unusually small, this was not the case; but in each of the other years the amount received from customs was not enough to carry on the Government. The receipts and expenditures in round numbers, rejecting all below thousands, were as follows:

[Mr. Fillmore here introduced statistics showing the receipts from customs year by year, 1834 to 1840 inclusive, the total being $122,979,000. The offsetting expenditures for the same period were $176,067,000, leaving a deficit for the seven years of $53,088,000, an average per year of $7,584,000.]

Here, then, is the result of our wise legislation in reducing the duties on imports. The receipts in 1837 were a little more than one-third of the expenditures, and in 1840 not two-thirds. During the seven years of reduction, when only four-tenths were taken off in all, our whole receipts from customs were only $122,979,000 while our expenditures were $176,067,000, leaving a deficit from this source of $53,088,000, averaging $7,584,000 annually. As we shall now have no other revenue than that derived from customs—unless, indeed, we repeal the land distribution act, which I trust we shall not, but consider that question as settled forever for the benefit of the States—I think our great difficulty will be in so adjusting the several rates of duty as to get the requisite amount of revenue.

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It is known to the House that there are two modes of imposing duties—one *ad valorem*, the other specific; one looking to value, the other to quantity merely. I am aware that there is a feeling, which has pervaded the community ever since the Compromise Act, in favor of *ad valorem* duties, as the preferable form of the two. Now, I do not know, and cannot pretend to say, how far prejudice or misconception may operate in this matter. Probably a little further examination of the subject would change opinions hastily taken up. I concede that, in theory, which often holds out to us a false light,

"That leads to bewilder, and dazzles to blind,"

the *ad valorem* mode may seem the best, because it may be argued that, in this mode, the duty is in proportion to the actual value of the thing taxed, which is the most conformable to justice. In theory it seems very plausible. But by experience, which, after all, is the best teacher, it is found that this apparently just mode of taxation leads to the most dangerous and the most mischievous results. If gentlemen will look at the tariff proposed in England, they will find that the duties are specific wherever it is possible to make them so. And why? Why was this done by so wise, and experienced, and cautious a nation? Because, in imposing an *ad valorem* duty, regard is always had to the cost of the article abroad, and not where the duty is paid. It may be asked why this is? Why not calculate the duty on the value of the article where imported? Because it is found impracticable. There are different qualities of the same article, and men's opinions as to those qualities are always found to differ. Hence, *ad valorem* duties cannot be made uniform. Thus, a gallon of wine imported into New York may there have one value; a gallon of the very same wine, imported into Charleston, may have there a higher or a lower value: it is a matter of opinion. And if the duties are to be levied on this "home valuation," as it is called, the duties will not be uniform, as the Constitution requires them to be.

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To avoid this, the value is taken as in the foreign market whence the article is imported, or where it is made; to which is added the freight and other charges, save insurance. But how is this foreign value ascertained? First, by the invoice, which ought to be the best evidence possible; but every one must see that there is a very strong temptation to the production of fraudulent invoices; and such is the weakness, not to say wickedness, of human nature that experience proves the temptation often to be too strong to be resisted. The importer is supplied with two invoices: one in which the real value of the goods is set down, another in which they are charged far below the true amount. The latter is produced to the collector, and thus the revenue is defrauded; and so shamefully common has this become that an honest man cannot compete in this branch of business without compromising his conscience and character; hence it has fallen chiefly into the hands of a set of foreigners who thus exclude our own citizens from the honest and honorable profits which their enterprise would otherwise secure to them, and drive them out of their own trade in their own market.

There remains, then, the other mode of levying the specific duties. And what are the objections urged against it? It is said, first, that it exacts the same amount of duty on the same quantity of goods, whether of a poorer or a better quality; and on this point an appeal is often made to popular prejudices. I admit that, so far as variation in value is concerned, it is unavoidable, under a specific duty, that the same tax should be paid on a poor article as on one more valuable. But is there no compensation for this? Certainly there is: it often protects the poor from frauds; and, what is of great consequence to the general welfare of the country, it induces the importation of a better article, because it pays more duty on account of its increased value.

Another objection against specific duties is, that the duty continues at one fixed rate, while the value of the taxed article fluctuates from time to time, either in consequence of the investment of more capital, or of improved machinery

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and greater skill in its manufacture. By this means a duty which, when first laid, might be very proper, in process of time becomes prohibitory. As the value of the article falls, the relative amount of duty increases, and *vice versa*.

I admit there is something in this. The committee felt the force of the objection, and to meet it they have done in this bill what never was done before: they have required the collectors of the several ports to report the monthly value of goods imported, both the custom-house value and the wholesale market value. The Secretary of the Treasury is required to make from these returns a monthly abstract, and to publish it to the country; and, in addition to this, he is required to ascertain whether any article is charged over thirty per cent. on the market value, and if so, to report the fact to Congress: so that, should there be any gross inequality growing out of the specific duty, it shall annually be brought to the notice of Congress and of the country.

We have been induced to impose specific duties wherever it was possible, with a view to avoid frauds. For although frauds may not exist to anything like the extent which has been supposed, yet the mere suspicion and general persuasion that they do is nearly as bad in its practical result. I wish that the citizens of this country should feel entire confidence that they are not paying a higher duty than the foreign mercenary who has no conscience in his way.

There is one other subject on which it is proper I should say a few words, and that is the subject of cash duties. All know that heretofore a credit of three and six months has been allowed on most articles; but the Secretary of the Treasury has recommended the cash system, and the committee has, to a great extent, adopted his recommendation.

Every one will, therefore, see that this change is a matter of the greatest consequence. Opinions in regard to its effects are widely different. Some say that its operation will be to destroy commerce entirely; others insist that its effect will be highly salutary in preventing the European manufacturer from getting rid of his surplus stock by throwing it into our auction rooms, while he is getting a credit at

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the custom-house, and thus injuring all fair trade. My own opinion is, for several reasons, in favor of adopting the system. I have looked into the documents and records on this subject, to discover what amount has been lost to the Treasury from the effects of the credit system, and I find from a report made in 1837-8, that it was there stated at about seven millions; and this, I think, was before the effects of the great revulsion which took place in 1836-7, because the payment of the bonds then due was postponed by Congress. By giving the merchants credit on their duties, the Treasury has lost seven millions. And why should this risk be run? Why should this special favor be extended to the importing merchant? What right has he to claim it? Why should Government run the risks of his business any more than that of another man's? There can be no reason, so far as I can see, unless it is our policy to encourage excessive importations; and this is a policy which I, for one, cannot approve. I think our importations have been vastly too great, and have involved us in a debt which presses heavily upon the nation. I would do nothing to encourage or aggravate such a condition of things.

Although I am in favor of cash duties, in preference to the practice which has heretofore prevailed, I am also in favor of a modified warehousing system. This I consider as the true substitute for the credit system. The Secretary of the Treasury has not, indeed, made any recommendation on this subject, because, as he states, he has not had the time to examine it. He leaves it entirely to Congress. The warehousing plan forms no part or feature of his project, and therefore the Committee of Ways and Means have not considered it their duty to enter into the subject, as they otherwise would have done.

What are the benefits it is calculated to produce?

The plan has been adopted in Europe for many years. Indeed, it is about a century since the first attempt was made to introduce it into England, under the administration of Sir Robert Walpole; but so great were the clamors of the merchants, who had been so long in the habit of defrauding the

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Government by obtaining credit on their bonds, that the Administration was finally forced to abandon the scheme. Indeed, Walpole was at one time in danger of losing his life by a mob, in consequence of his endeavors to carry it through Parliament. Since then, it never had been successfully attempted, until 1803, when it was adopted by the British Government, and has been practised ever since. I have here a synopsis of the acts in reference to it. The warehousing system is a provision of lodging imported articles in warehouses, until they are taken out and entered and duties paid for home consumption: if they are re-exported, the duty is remitted.

[Here Mr. Fillmore read to some extent from McCulloch, giving a history of the warehousing system, as practised in England.]

Thus, it is seen that the scheme has worked well in England. In this country it was introduced in 1791, and has been in use ever since in reference to teas and some other articles.

But there is an objection urged against it which, if established, is like to prove fatal. The experience of Great Britain, it is said, has proved that it will not do to establish warehouses in all the small ports of the kingdom, and they have therefore selected certain of the greater importing towns where alone the system is in operation. Now, our Constitution declares that no preference shall be given to the ports of one State over those of another in the imposition of duties, which must be uniform throughout the United States; and it is said that, if we shall pursue the British plan of establishing warehouses only in certain of the greater sea-ports, or if Congress shall by law authorize the Secretary of the Treasury to do so, it will, in effect, be giving a preference to those ports, and so will be a violation of the Constitution. With all due deference to gentlemen who urge this constitutional objection, to me it does not seem that such a consequence will follow. We have the system

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now, in regard to some articles, and we may extend it; and if we do, the operation, in regard to the small ports and the large, will be like that of the post office system in regard to the great mail routes and the small—the one compensates for the other.

The great collections at New York, for instance, will supply the means of paying for the system in smaller ports; and thus, by a general system, the whole country will collectively be benefited. No plan seems to me so well calculated to secure the dues of the Government, while at the same time it extends accommodation to the merchant. At all events I am in favor of trying it. I do not think that it involves any violation of the Constitution. The object of that provision in the Constitution which is said to prohibit it was manifestly to prevent a preference of one State over another, by exacting less duties in the ports of the one than in those of the other. It certainly could not be to make the advantages of every port in the United States equal: Nature herself has rendered that impossible. The intent was to guard against a combination of some of the States to take advantage of others—to prevent the great States from oppressing the smaller. But this has nothing to do with that question. I am, as I said, in favor of trying the plan. Indeed, I apprehend it will be unavoidable if we introduce the system of cash duties. It might be very proper to make some difference as to goods coming from beyond the Cape of Good Hope; but that is easily arranged. I hope the committee on Commerce will report us a bill presenting a matured plan.

When I say that this bill contains nothing of it, I do not mean to be understood that there is not here some substitute for it. The bill provides that, when goods are imported from beyond the Cape, they may remain in store ninety days before the duties are exacted, and in all other cases sixty days.

Although there are in this bill some other subjects of a general nature, I have detained the committee so long that I will not now go further into its provisions.

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I must, however, before concluding, say a word or two touching the item in the clause now under consideration: I mean the article of wool. Some gentleman will probably differ from the views of the committee on this subject. There seems, indeed, to have been some doubt in the mind of the Secretary of the Treasury in regard to it. The duty heretofore has been forty per cent. *ad valorem,* and four cents per pound on wool worth over eight cents. This was originally equal to about fifty per cent. *ad valorem;* but it has been gradually coming down under the Compromise Act.

I have had some trouble in finding the amount of importation under the high duty. There is this difference between wool and many other articles; being produced not in one or two confined spots and by comparatively few persons, but in a wide-spreading region and by great numbers of people, far separated from each other, there can be no combinations and conspiracies to keep up its price. Such combinations not only may but do exist in regard to other things. I have lately heard of some very strange facts on that subject. I have found that the iron-makers in England agree to regulate the quantity of iron produced, and thus to keep up its price to a certain fixed standard, just as the proprietors of our steamboats, in some places, agree to run only so many boats at a prescribed rate of fare.

If it is found that there is a surplus number of forges, the proprietors get together and make a decree that only a certain quantity of iron shall be produced; and this is either distributed pro rata among all the forges, or some of the forges are suspended from working. Nay, I have heard what is still more extraordinary. In Sweden, the Government annually regulates the amount of iron produced in the same manner and on the same principle, and also with a view to prevent the forests being too much invaded for the manufacture of charcoal; and the proprietors quietly submit to the regulation.

The same thing can at any time be accomplished where there are but few engaged in the same branch of work, and

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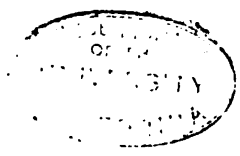
where they are concentrated into a narrow space; but this cannot be the case in regard to wool. Its product is spread over different States; there is and can be no combination. The price of the article is regulated by the fixed laws of demand and supply, and by these alone. We should be careful to put the duty as high as we can, but not so high as to be prohibitory. We have nothing to apprehend from combinations.

I have received a statement from the Treasury Department on this subject, which I will lay before the House. It will be recollected that, since 1832, all wool worth less than eight cents per pound at the place whence imported has been free. This will account for the large importation of that article, while that paying so high a duty has been constantly falling off. I regret that the table does not furnish the exports of that paying duty, that we might judge how much remained for home consumption.

[The table here submitted exhibits the quantity and value of manufactured wool imported into the United States annually from 1822 to 1841, with the amount of duty thereon.]

It will be perceived by this table that the importations of the free article for the last four years have been gradually increasing; that in 1831 more than 5,000,000 pounds of that paying a duty was imported; if I recollect right, the duty then was fifty per cent. *ad valorem,* and four cents a pound. For the last three years, notwithstanding the duty under the Compromise Act has come down to about thirty-seven or thirty-eight per cent., yet only a little over half a million has been imported—an amount certainly quite too small to affect the general price. It appears from the last census that there are about 20,000,000 of sheep in the United States, and it has been estimated that they produce annually about 50,000,000 pounds of wool. Much of this is manufactured by families. Nevertheless it is apparent that most of our woollen manufactories are supplied from this source, with very little competition from abroad, as it is understood that the coarse



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wool under eight cents does not come in competition with ours.

There is a statement at page 72 of the proceedings of the "National Convention for the Protection of American Interests," held at New York in April last, purporting to give the average price of wool in Windsor, Vermont, from 1835 to 1841, inclusive. I know not how far it can be relied on, but it[1] shows a very great reduction in the price of the article, wholly independent of foreign importations. The committee, after considerable deliberation, did not think it advisable to change the duty recommended by the Secretary in his bill, and left it thirty per cent. It may be too high or too low; but, if I can be satisfied that we can go still higher, and not render the duty prohibitory, I am ready to do it. It is due to this large and meritorious class of agriculturists, and is necessary for the purpose of revenue, to raise this duty as high as can be done and make it available; but it must not be so high as to prevent the manufacturer from purchasing, for in that case you destroy the home market for the wool, and your duties will neither produce revenue nor protection, but the wool grower will have to seek a market in foreign countries, where no duties can aid him, but he will meet the competition of the whole world. I therefore warn my friends who are interested in this not to overreach themselves, by raising the duty too high, lest they lose all. It may be difficult to ascertain the exact point; but probably the intelligent gentlemen from Vermont, who take a deep interest in this question, may afford us some facts and arguments that will settle the question to the satisfaction of the House.

But, sir, I will not dwell upon it. I feel exhausted myself, and fear I have worried the patience of the House with this long and imperfectly digested statement of the provisions of this bill. I feel that I owe the House an apology for the very imperfect and unsatisfactory manner in which I have

1. The statement cited shows the price of wool per pound to have ranged as follows: In 1835, 62 cents; 1836, 65 cents; 1837, 50 cents; 1838, 40 cents; 1839, 42 cents; 1840, 40 cents; 1841, 36 cents.

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been able to discharge the duty devolved on me; but constant and unwearied attention in the committee room to the details of the bill has prevented that attention to the general subject that was due to its importance. It only remains that I return my most sincere and grateful thanks to the House for the kind and patient indulgence with which it has listened to my remarks, for which I feel that I am indebted rather to the interest felt in the subject itself than to anything in my manner of presenting it.

December 15, 1842, Mr. Fillmore shared in the debate on the Civil and Diplomatic Appropriation Bill, his remarks relating chiefly to clerk hire; at his instance, certain salary appropriations were reduced. January 7, 1843, he offered the following, which was adopted:

Resolved, That the Secretary of War be directed to communicate to this House any reports in relation to the lake harbors which may have been received since his annual report.

Later he offered resolutions discharging the Committee of Ways and Means from further consideration of appropriations for certain lighthouses, of certain measures referring to Wisconsin Territory, etc., etc., sometimes with remarks in explanation. An item in the Army Appropriation Bill for completing an arsenal at Fayetteville, N. C., precipitated debate which ran through several days, in which Mr. Fillmore shared.

On January 23, 1843, Mr. Fillmore asked and received the permission of the House that he might make a personal explanation in reference to himself and the Committee of Ways and Means. He submitted to the House editorial and other articles from the New York *Union*, an Administration paper of the city of New York, and from the *Madisonian*, of the same city, in which serious charges were made against the integrity of Mr. Fillmore and his committee. It

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was alleged that the Exchequer bill was defeated by a Whig caucus, and that Mr. Clay had sent to the committee a letter hostile to Administration interests. It was claimed that by these means the Exchequer bill was defeated by the caucus. Mr. Fillmore denied that any caucus was held as alleged in the reports; denied that the Whig leaders made any furious attack on the President and the Administration; and that a letter from Mr. Clay had been read during the caucus. He concluded in substance as follows:

Having denied, as he did peremptorily and emphatically, any knowledge of the subject, he had only to say further, that all the statements contained in the two articles to which he had called the attention of the House were, so far as he had any knowledge of the subject, unequivocally false. If any members here knew any facts or circumstances sustaining them, he begged that they would bring them out. It was due to the subject, and due to the country, that they should speak out, if they had anything to say on the subject. In justice to the Committee of Ways and Means, he would say that they took up the subject of the exchequer with a sincere desire to recommend it, or some similar measure, to the House; and it was after the most mature and serious consideration that they came to the conclusion that they could only perform their duty to the country by recommending its rejection. He did not know that his duty to himself, or to the committee, required that he should say more.

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PLAN OF AN EXCHEQUER

On January 27, 1843, Mr. Fillmore called up the report of his Ways and Means Committee on the subject of the Exchequer, the question being on the motion of Mr. Cushing to amend the resolution concluding that report by striking out the word "not"; that is, making the affirmation that it was expedient to adopt the Executive plan of the exchequer.

Mr. Fillmore spoke at length. He commenced by referring to the charge which had been put forth that the Committee of Ways and Means, in proposing no affirmative action on the subject of the exchequer had neglected to discharge their duty. In order to test whether they had, he should content himself by referring to the manner in which the question was presented to the committee, and in which it now stood before the House of the country, as admitted by the gentleman from Massachusetts. More than a year ago the scheme was first submitted to Congress, and then referred to a Select Committee, a majority of whom were the friends of the President. After two and a half months of reflection, this committee reported a substitute for the plan of the Executive, dispensing with its main features. If, then, any modification of the exchequer were wanted—if the Committee of Ways and Means had neglected to discharge their duty in reporting modifications, he referred gentlemen to these reported by the friends of the Administration. The gentleman, too, who made the objection that the Committee of Ways and Means had neglected their duty in not reporting modifications, since they could agree to the plan itself, had given notice that he would move to substi-

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tute the bill of the Secretary of the Treasury for his own bill, for the purpose of bringing the subject before the House in every possible shape. Now, he submitted it to the consideration of the House, whether the Committee of Ways and Means had not presented the subject in every shape possible, by not favoring either of the schemes? The gentleman from Massachusetts [Mr. Cushing] had moved to strike out the word "not" so as to make the resolution of the committee an affirmative proposition. He would state, in reference to that matter, that he had himself risen and proposed the word be stricken out, thereby making the resolution an affirmative instead of a negative proposition. He could not see the difference between voting in favor of a resolution declaring that the exchequer should "not" be adopted, and voting against a resolution declaring that it should be adopted. If, indeed, there were any in the House, who, after the many discussions which had taken place, were unprepared to say whether they were in favor of, or against, the exchequer, he was sorry for it. He could not but admire the manly independence of the gentleman from Ohio [Mr. Pendleton] who yesterday told the House that, although many of his constituents had petitioned for it, he must, after a close and careful examination of the subject, give his vote against the proposition. It was a determination resulting from an honest conviction of the heart, which he admired. He could not do otherwise than commend the spirit of the man who, when he found a measure to be right, resolved to hold himself ready to sustain it; and if wrong, to condemn it. Nor could he think that there were men in the House who would take shelter of their opinions under a negative proposition.

After some further remarks upon this head, Mr. Fillmore proceeded to an explanation of a position which was taken in the report of the Committee of Ways and Means, and which, he understood, was misconceived by some of his friends.

He alluded to that portion of the report which spoke of the power of removal from office. It was in 1835, when

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the whole subject was under debate in the Senate, and when he also examined the subject, that he came to the conclusion that, where the power of appointment was vested in the President and the Senate, in that case the President and the Senate together alone had the power of removal. In support of the position he maintained, he cited the reasoning on the subject contained in the *Federalist,* which was at the time of its adoption held to be the true construction of the Constitution. In that work it was argued to the people, when the Constitution was pending before them for their adoption, that where a concurrence of the President and Senate was necessary to appointment, the same was also requisite to removal from office. The Constitution provided no power of removal. That only resulted from the power of appointment. He stated as a remarkable fact, that, although such a debate took place in 1835, he had not, after a diligent search, been able to get a printed copy of Mr. Calhoun's bill. He found a manuscript copy, together with the amendment proposed, among the archives of the Government; and as it passed the Senate, the only principle asserted was this: it repealed the law limiting the tenure of offices to four years, provided that the only limit should be in case of defalcation; and declared that the President should assign his reasons to the Senate for any removal he might make. There was no principle in it which tended to limit the power of removal. Now, his own opinion was, that the President possessed no such power.

He noticed the objections which had been raised to a continuance of the present regulations of the Treasury Department, on the ground that the laws in force did not provide any place of security for public money, and also that there were not sufficient provisions of law for the punishment of embezzlement. The gentleman from Massachusetts had argued that there were no provisions for the punishment of defaulters, except such as might be contained in the Act of 1789, and the resolution of 1816.

[Mr. Cushing said his proposition was more qualified.]

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Mr. Fillmore alluded to the supposition entertained by some, that the Committee of Ways and Means had omitted their duty. He feared the House had forgotten their own action on the subject.

There were already existing by law ample checks and guards for the security of the public money. In the first place, there was the law of 1789, which provides that it shall be the duty of the Treasurer of the United States to receive and keep the moneys of the United States, and disburse them upon warrants drawn by the Secretary of the Treasury. Mark the words: "disburse them upon warrants drawn by the Secretary of the Treasury." Then, what next? As to the medium in which the public dues shall be paid, we have the joint resolution of 1816, which prescribes that they shall be paid in gold and silver, treasury notes, and the bills of specie-paying banks. Thus we have the provision designating the officers who shall keep the public money; and next, we have the medium in which it shall be paid. Now, he wanted to know what more there was in the famous exchequer bill which came from the Treasury, or that of the Select Committee of this House, to secure the public treasure from embezzlement? Instead of calling the officer who is to have the custody of the public money, the Treasurer of the United States, the bill proposes to call them a board of exchequer, though one of them is to be this same Treasurer. First, there is to be the Secretary of the Treasury; second, the Treasurer of the United States, and then there are to be three commissioners to constitute this board of exchequer. The system now in operation was but a part of that "one idea" which provides for five officers instead of one to do the same thing, and who are to be appointed in the same manner, viz., by the President of the United States, by and with the advice and consent of the Senate. But it had been said that there was now no security for the faithful custody and disbursement of the public money, and therefore the Committee on Ways and Means neglected their duty in failing to provide for it.

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Let us, said Mr. Fillmore, look a little into the law on this subject. Gentlemen seemed to have forgotten that, in repealing the independent treasury, they left untouched the penal part of it providing for the security of the public money. They repealed the act so far as it relates to the receivers general, and the public buildings for the deposit of the public money, together with the provision requiring the public dues to be paid in gold and silver; yet the penal part of the act—which secures the faithful custody, transfer, and disbursement of the public money—this House had not the folly to repeal. Not only did they retain it, but they added to it. There were the most ample and the most penal provisions against anybody who should use the public treasure. In addition to the penalty imposed by the sub-treasury act, they had also provided for the evidence by which guilt should be ascertained—which the independent treasury act did not do.

[Mr. Fillmore here read from the Act of August 13, 1841, repealing the independent treasury Act; section two of which provides as punishment for embezzlement, that the convicted person shall "forfeit and pay to the United States a fine equal to the amount of the money embezzled, and shall suffer imprisonment for a term not less than six months, nor more than five years." He continued:]

There was the law as it now stood. Were not these provisions penal enough to satisfy the gentleman? Had the Committee of Ways and Means neglected their duty, in not imposing greater penalties? If so, he would point them to the provisions of the famous exchequer bill, and then see if that measure provided better securities for the public money than now existed. Instead of prohibiting the public officers from using, investing, or loaning the public money, they were expressly authorized to do it. He asked if the Committee of Ways and Means had neglected their duty, when they said that these penalties for the unfaithful application

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of the public money were ample, and far better than the exchequer bill.

But he had occupied more time on this subject than he had supposed he would, when he commenced. He had a word to say to the gentleman from Massachusetts, Mr. Cushing, and others, who had contended that this exchequer was not a Government bank.

That he might not misrepresent the honorable member from Massachusetts, who spoke first, and denied that this was a Government bank, he would read his remarks as published; and, if there was any mistake in the report of them, he desired that he would correct it.

[Mr. Fillmore here read an extract from Mr. Cushing's speech on the exchequer bill, and continued:]

On this assertion that the President had come to that House, and asked to be relieved from the discretion vested in him, and asked to have his power defined and limited, he would appeal to facts for an answer. How had the President asked to be relieved? The laws, as had been shown, required the public treasure to be kept in the custody of the Treasury of the United States. The law, as it stood, declared that if that Treasurer, or any other officer intrusted with any public money, should use it, or lend or invest it, or in any other way dispose of it, or who should refuse or neglect to pay it over when required to do so, the act should be taken and deemed to be an embezzlement, and should be punished with a fine to the amount of the whole sum embezzled, and imprisonment for not less than six months, nor more than five years. Now, what did this bill propose? Did it propose to put the public money in the hands of any other person or persons than those appointed by the President of the United States? No. On the contrary, it proposed to put the public money into the hands of a host of receivers; and not only that, but to put in their custody at the same place the hoards of private individuals. Did that look like a desire on his part to be relieved from responsibility? Thrice did Marc Antony offer the crown

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to Cæsar on the Lupercal, and thrice did he refuse it; but he apprehended that the Executive had come to that House with no such feeling, when he asked to be relieved from his responsibility. He only asked to have it increased in a tenfold degree; so that not only might he have the control of the public treasure, but of all the private funds and banking of the nation. But to return to the speech of the gentleman of Massachusetts. The gentleman said: "Again the committee insisted that the treasury board was virtually a Government bank." Yes [said Mr. Fillmore] we did insist that it was.

[Mr. Fillmore again quoted at length from Mr. Cushing, showing that he had denied "that the exchequer was a bank," although it "did perform acts which were in themselves the same as the acts of a bank." He continued:]

But the gentleman said that this was no bank. Had he attempted to give his definition of what a bank was? He said, to be sure, that it performed the functions of a bank; but still it was no bank. "Sir," said Mr. Fillmore, "I have been somewhat puzzled myself to know what a bank is." He had a definition of a bank here, which he had transcribed from a work lately published, called "The History of Banking in the United States." According to that definition, a bank was "a commercial institution or repository for the purpose of receiving the money of individuals, and to improve it by trafficking in merchandise, bullion, or bills of exchange; and may be of a public or private nature." Now, if this was the true definition of a bank, the exchequer certainly was one.

In the first place, it was an institution or repository, in the language of the definition, for the purpose of receiving the money of individuals. This exchequer proposed a bank of deposit for the purpose of receiving the funds of individuals, and either to keep them in security professedly—how far it might do that, he would not pretend to say—or to improve them by trafficking in goods, bullion, or bills

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of exchange. This, it would be perceived, it was expressly authorized to do; for it was to deal in bills of exchange, by buying and selling them. There was the definition from one of the standard works of the country, which showed that this exchequer was a bank, and was from a writer who was disinterested, and, so far as he had given evidence of it, without prejudice on the subject. But Mr. Fillmore did not press this definition of a bank. A long time ago they had a discussion on the sub-treasury, which was created for the collection, safekeeping, transfer, and disbursement of the public money, by means of the Government's own officers. This went far beyond the sub-treasury. That did not propose the buying and selling of bills of exchange; this did. That did not propose the receiving the deposits of individuals. That did not propose a board of directors; this did. That did not propose branches in the States; this did. It would, therefore, be perceived that it went beyond the sub-treasury in its likeness to a bank.

[Mr. Fillmore quoted again and at length from Mr. Cushing's speech, turning that gentleman's words upon himself, to the amusement of the House. After further scattering debate, Mr. Cushing's amendment (to strike out the word "not" from the resolution which affirmed that it was "not" expedient to adopt the Executive plan of the exchequer), was withdrawn; and the resolution: "That the plan of an exchequer presented to Congress by the Secretary of the Treasury at the last session of Congress, entitled 'A bill amendatory of the several acts establishing the Treasury Department' ought not to be adopted," was adopted.]

February 2d, Mr. Fillmore shared in the discussion of a bill "Concerning the Legislative Assembly of Wisconsin." He stated the action of his committee relative thereto, in effect, as follows:

At the last session of Congress an appropriation was made for Wisconsin Territory for the year 1842. In

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recommending the appropriation, however, the Committee of Ways and Means found claims for very large arrearages, which they refused to allow, and they only recommended the amount of appropriation that had been made the year before. When the bill came up in the House a motion was made to insert an appropriation for arrearages, which was rejected. The bill then went to the Senate, and finally for the purpose of avoiding these arrearages in future a section was inserted, providing that, hereafter, no sessions of the territorial legislatures shall be held without an appropriation from Congress to pay them.

In the concluding days of the third session of the Twenty-seventh Congress, Mr. Fillmore was exceedingly active in the discharge of his duty as chairman of the Committee of Ways and Means. On a large number of the bills reported he spoke at some length. The range of subjects covered is considerable, but few of them are of a character to demand attention here.

February 8th, he argued at length in behalf of the Navy Appropriation Bill, stating in detail the reductions recommended by the committee.

On the 13th of February, he led the debate on the Army Appropriation Bill. This led him into a statement of the labors that had fallen to his committee during that session. The present, he said, was the third session and during its continuance the Committee of Ways and Means had to perform the duty of examining a double set of appropriation bills for the half calendar year and for the fiscal year; they had also before them a proposition to bring back into the Treasury money which was said to have been hitherto squandered; also the recommendation of the Secretary of the Treasury that means should be provided for, to carry the Department through the year to the 1st of January next; and also an exchequer project, which had occupied much of their time. He defended at length his committee from the

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charges that they had abandoned all measures to carry the Government through the year. It was only necessary, he said, for the President in the exercise of his power to control the expenditures of these appropriations not to exhaust the Treasury by paying them over before they were absolutely needed, and thus create the necessity of an extra session. If there should be no more expense during the year than what was appropriated by Congress for that period, in his opinion the ways and means of the Treasury would be sufficient. He only asked that the Government might be administered as it had been in years past. . . .

February 20th, he explained at length the object of a bill "To bring into the Treasury certain moneys received by public officers before they can be disbursed and for other purposes."

February 23d, for his committee, he made report on a Message of the President, with a letter of the Secretary of the Treasury accompanying on the subject of finances, and offered resolutions relating to the same. On the same day, the question being on the passage of "An Act to provide for the better security of the lives of passengers on board of vessels propelled in the whole or part by steam," Mr. Fillmore opposed a proposed exemption of any kind of steamboat machinery from the operation of a law to which others were subject.[1]

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1. It had been proposed to exempt steamboats propelled by Ericsson's propellers from the law requiring steamboats to be provided with fire-buckets and engines. Mr. Fillmore's opposition to this proposed exemption elicited from Mr. David P. Brewster of Oswego a statement which embodies interesting facts of lake history.

In the summer of 1842, several enterprising citizens of Oswego constructed a number of vessels, to be impelled partly by sails, and partly by Ericsson's propellers, for the trade of the lakes, and particularly for the purpose of going through the Welland canal. Steamboats constructed in the ordinary way not being able to go through that canal, these gentlemen, together with a number of other citizens, petitioned Congress that the vessels of the above description, thus intended for the lake trade, should be exempted from the penalties of the Act of 1838, requiring steamboats to be provided with additional boats and fire-engines, on the ground that they were intended solely for freight boats, and not for passengers. In the year 1838, when this law was first enacted, purporting to be a law to secure the safety of passengers in steamboats, Mr. Brewster was presiding over an insurance company; and the question arose

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Other subjects on which Mr. Fillmore spoke in these last days of his last session in Congress, were: Contract labor for convicts in State penitentiaries, appropriations for Custom-houses, for the Brooklyn dry dock, for defraying the expense of printing the Compendium of the Sixth Census; and the Treasury Note Bill. His labors as Representative in Congress closed on March 3d, the final day of the session, by reporting the Civil and Diplomatic Appropriation Bill, explaining its provisions at length and moving its adoption.

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whether this law was so calculated to effect the object in view, as to authorize them to diminish the rates of insurance; and, after a full debate, this question was decided in the negative. The prevalent opinion of the board, however, was that the law, so far from diminishing the hazard of human life, increased it. The opposite opinion evidently prevailed in the House of Representatives at the time of this debate. Mr. Fillmore, replying to Mr. Brewster, intimated his good will toward the commerce of Oswego, but took the ground that one class of steamboats should not be exempted from restrictions imposed on the others. "It was well known that all the steamboats navigating the lakes were propelled, in part, by sails, as well as those which were fitted with Ericsson's propellers; and that numbers of the emigrants took passage in these freight boats, because they could travel in them at a less expense." It was to protect the lives of this numerous class, that he thought the restriction should be imposed on the freight boats as well as the passenger boats. The bill passed with Mr. Fillmore's amendment.

Ericsson's first use of the screw propeller in this country, in the warship Princeton, was in 1841. In that year Capt. James Van Cleve of Lewiston saw Ericsson's model in New York. Ericsson offered Van Cleve a half interest in his patent for the great lakes if Van Cleve would place on Lake Ontario, within a year, a steam vessel equipped with the new wheel. Van Cleve assented and a contract was signed. This was in December, 1840. Van Cleve went to Oswego, interested others in the enterprise, and built and launched the Vandalia, of 138 tons, the first vessel on the lakes to use the screw propeller. She made her first trip in November, 1841, and proved a success.

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MR. FILLMORE AS

COMPTROLLER

OF NEW YORK STATE

JANUARY 1, 1848, TO FEBRUARY 20, 1849

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MR. FILLMORE AS

NEW YORK STATE COMPTROLLER

JANUARY 1, 1848, TO FEBRUARY 20, 1849

Mr. Fillmore took up his duties as Comptroller of the State of New York on January 1, 1848. In June of that year he was nominated for Vice-President, and elected in November. He resigned his office as Comptroller February 20, 1849.

The greater part of his correspondence as Comptroller was of a routine character, in the discharge of the regular business of the office. The following only are selected either because they supply data for local history—usually that of Buffalo—or because they throw light on matters of New York State history; or because they reveal somewhat of Mr. Fillmore's character—his thoroughness, his devotion to the task in hand, his unassailable integrity.

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LETTERS AS COMPTROLLER

AN OLD BUFFALO CITY BANK CASE.

COMPTROLLER'S OFFICE, ALBANY, Jan. 26, 1848.

DEAR SIR: On the 4th of February, 1840, a judgment was rendered in the Supreme Court for $805.63 against Jacob A. Barker and Horatio A. Holt at the suit of the Buffalo City Bank. This judgment has been duly assigned to the Comptroller, for the benefit of the Bank Fund,[1] by an order of the Court of Chancery.

I have thought best to have the matter enquired into, and write you for that purpose. You will confine your enquiries for the present to the responsibility of Mr. Barker and to his ability to pay the judgment, should an effort be made to enforce its collection and communicate to me the information you may be enabled to obtain; and if he cannot pay the whole amount, state to me the terms upon which it would be best to compromise the judgment with him.

Respectfully yours,

M. FILLMORE,

Comptroller.

E. C. SPRAGUE, Esq., Buffalo.

TO INCREASE THE COMPTROLLER'S POWERS.

ALBANY, January 29, 1848.

TO THE LEGISLATURE OF THE STATE OF NEW YORK:

I respectfully represent that by reference to the 4th and 5th sections of the act entitled "An Act to authorize the

1. So in original.

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business of banking," passed April 18, 1838, it will be seen that in case any person or association possessing banking privileges under said act, shall fail or refuse to pay their bills or notes, the Comptroller is authorized, after public notice, "to sell, at public auction, the public stocks pledged, or the bonds and mortgages assigned" for the security and payment of such bills or notes. There is no power in the Comptroller to foreclose the mortgages, but only to *sell* them; and there may be a sacrifice on such sale, to the loss of bill-holders, when the land itself would be abundant security, which might be available if there was a power in the Comptroller to sell the lands when deemed essential to the safety of the bill-holders or public.

The notes of the Atlas Bank of New York, at Clymer, Chatauque Co., are now under protest, and a resort to the securities will probably be necessary. In this case there is one large mortgage for $65,000, covering several lots of land which might be sold separately on a foreclosure. It is obvious that there can be but few competitors for so large a mortgage. It is not susceptible of division, and the consequence will probably be that the mortgage will be sacrificed and the bill-holders injured. If the Comptroller had the power of foreclosure, he could sell the land in parcels. Many would become competitors for a lot, that could not for the whole mortgage, and in this way the amount to be realized from the property would be greatly increased for the benefit of the bill-holders.

The only objection to this would seem to be the delay occasioned by a foreclosure, and the consequent depreciation of the bills in the market. This would be a reason why the Comptroller should never resort to a foreclosure instead of a sale, when he was not likely to realize much more by a sale than by a foreclosure. But there may be cases, and I believe this is one, in which the power to foreclose would be highly beneficial. I am, therefore, of the opinion, that sound policy requires a discretionary power in the Comptroller, either to sell or foreclose the mortgages, as the safety of the bill-holders may in his opinion require, not only in the cases

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above stated by me, but in all others which may arise; and I would respectfully suggest that a law to such effect be passed as soon as the pleasure and convenience of the Legislature will admit.

M. FILLMORE,
Comptroller.

POWERS OF COUNTY JUDGES.

COMPTROLLER'S OFFICE, February 26, 1848.

MESSRS. WOOD & FISH,

GENTLEMEN: Your letter of the 23d inst. stating that you are Loan Commissioners of the County of Monroe and that the Governor and Senate have assumed to appoint others to fill the places now held by you and requesting my opinion whether those appointed to succeed you are legally authorized to do so, first because you doubt the power of the Governor and Senate to make the appointment, and secondly because the bond of the new commissioners is approved only by the County Judge instead of two Judges of the Common Pleas as required by the 3d section of the act of 1837.

First then as to the power to appoint. The Act of April 4th, 1837, section 2d, expressly authorizes the Governor and Senate to make the appointments. The new Constitution (Act 1, Sec. 17) declares that such acts of Legislature of the State as are now in force shall be and continue the law of this State subject, etc., but such of said acts as are repugnant to this Constitution are hereby abrogated. I see nothing in the act authorizing this mode of appointment, that is repugnant to the Constitution, I therefore think the appointment constitutional and legal.

The next question is, was the bond properly approved by the County Judge?

By the Act to amend the Judiciary Act passed December 14, 1847, Sec. 27, "Every county judge within the county within which he shall have been elected shall have power and it shall be his duty to perform all such duties and do all such acts, when not holding a County Court as might have been

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done or performed, by the laws in force on the 12th of May, 1847, by the Judges of the Court of Common Pleas, *or by any one or more of them,"* etc.

This seems to confer ample power upon the County Judge to approve their bond. I am therefore of opinion that their appointment is legal, the approval of their bond sufficient and respectfully advise that you deliver to them the books, papers and money in your hands, belonging to the office.

Respectfully yours,
MILLARD FILLMORE.

TO INCREASE THE STAFF IN THE COMPTROLLER'S OFFICE.

COMPTROLLER'S OFFICE, March 7, 1848.

HON. WESSELL S. SMITH,
Chairman of the Committee of Ways and Means,

SIR: On examining into the business of this office, I find that portions of it are much in arrears, for want of sufficient assistance to do it promptly. While the business has increased nearly one third, no provision has been made for an increase of clerks since 1840. Believing that the public interest requires that all the business in the Comptroller's Office should be done with promptness and dispatch, and that it is bad economy to suffer it to accumulate, I beg leave to call the attention of your committee to the subject and to suggest the propriety of a permanent increase of appropriations for clerkhire in this office of one thousand dollars per annum.

I also find that some preparation was made for a sale of lands for taxes during the past year, but learn that the force of the office (though clerks worked and were paid for extra hours) was found insufficient to effect it, and it was finally abandoned. It is apparent that the interests of the State require the sale to be made as soon as possible. The last sale was made in 1843, and was for all taxes assessed up to and including the year 1839. The State has therefore advanced

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from the Treasury to the several counties returning non-resident lands, the taxes for 1840, 1841, 1842, 1843, 1844, 1845 and 1846, amounting in all to more than $420,000, and this amount with interest can only be reimbursed in part, by sale of the lands returned. To effect this object within the present year will require the assistance of two additional clerks from six to nine months each and to enable me to employ them, I would recommend that an appropriation of twelve hundred dollars be added to the supply bill for that purpose.

I append hereto the form of a section for each object.

Respectfully yours,

MILLARD FILLMORE,
Comptroller.

The annual appropriation for clerk hire in the Comptroller's office, shall be six thousand eight hundred dollars in lieu of the sum heretofore appropriated, to commence on the first day of April, 1848.

The Comptroller is hereby authorized to employ such additional assistance as he may deem necessary to bring up the business in arrears in his office, and to prepare for and make sale of lands returned for arrears of taxes; and twelve hundred dollars or so much thereof as may be necessary is hereby appropriated to defray the expenses of the same.

PERSONALITY BEHIND A BANK.

COMPTROLLER'S OFFICE, March 23, 1848.

DEAR SIR: Yours of March 20th in relation to a sale of your bank to Mr. Tiffany came duly to hand and I received one from him on the same subject by the same mail, to which I have given a more full response, and to which I beg leave, to refer for an answer to yours.

I am strongly inclined to think, that it would be a fraud upon the community to permit the bank to proceed in *your name* after your personal responsibility was withdrawn. Suppose John Jacob Astor should establish an individual bank, issue and sign his bills and then sell out to John Doe, would it not be a fraud upon the community to permit John

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Doe to proceed with the Bank without changing its name? Your case is different, but I put this to show, what might be done if the thing were permitted.

Respectfully yours,

MILLARD FILLMORE.

E. N. PRATT, Esq.,
Buffalo, N. Y.

COMPTROLLER'S OFFICE, March 23, 1848.

LUCIUS F. TIFFANY, Esq.,

DEAR SIR: Yours of the 20th came to hand yesterday, in which you say that you have taken some steps towards purchasing the interest of E. N. Pratt, in the Pratt's Bank of Buffalo; and you desire to know

1st, Whether there would be any objection to such sale by me?

2d, Would I approve it? and 3 would the Canal Board adhere to it sresolution to give the Bank one sixth of the tolls collected at Buffalo in 1848.

In answer to these interrogatories I must say that I am not aware that any objection from me could [prevent] a sale, or that any approbation of mine is at all necessary to give it validity. This is an individual Bank. Mr. Pratt can undoubtedly sell all his reversionary interest in the stocks held by this department in trust for the payment of the bills which he has issued, and any other property that he deems a part of the establishment. But no sale can impair the right vested in this Department to apply the securities held in trust to the redemption of the circulating notes—or releave[1] Mr. Pratt from his personal liability on every bill issued by him and every contract entered into by him. This is not like an *association* under the general banking law, when a man holding stock may sell it and incur no personal liability.

But were my assent necessary I know of no objection to the purchase; and should not hesitate to give my approba-

1. So in original.

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tion. I am not, however, prepared to say that I should be willing to assent to the issuing of bills in Pratt's name, for which he is not personally liable. This is a question which I must reserve for future consideration.

As to the deposit of tolls, I submitted the question to the Canal Board. They declined giving any intimation on the subject. If Mr. Pratt did not give the security, they said they should consider the matter open and the tolls to be disposed of as if no award had been made. There seemed to be a strong aversion to satisfying any negociation [1] for the sale of the right to these deposits. The Board will not countanence [2] any such arrangement.

I am truly yours,

MILLARD FILLMORE.

AMPLE OFFICE HOURS FOR A CLERK.

COMPTROLLER'S OFFICE, April 17, 1848.

DEAR SIR: The Legislature having authorized me to employ temporarily two additional Clerks, I am happy to offer you an appointment if you see fit to accept it.

You can come on trial for one month. If we are both pleased, I shall probably want you from 4 to 6 months and I will allow you at the rate of $600 per year for the term you may stay. Should you accept the appointment, please to notify me immediately. I wish you to commence as soon as possible. It is proper that I should say, that our usual office hours will be from breakfast to tea-time, but when business presses you may be required to work longer.

Respectfully yours,

MILLARD FILLMORE.

EDWIN R. REYNOLDS, *Esq.*

1. So in original.
2. So in original.

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ON BANKERS' LIABILITIES.

COMPTROLLER'S OFFICE, ALBANY, April 25, 1848.

To MESSRS. CHARLES CLARK, N. WILEY & W. H. ROBINSON,
Assessors of the Village of Watertown.

GENTLEMEN: Just as I was leaving for New York I received a letter from Wooster Sherman Esq. dated on the 13th instant, making some inquiry as to his liability for taxes as an individual Banker and on my return I received yours of the 18th making similar inquiries. I should have submitted the questions to the attorney general but he is not here and may not be for some time to come. As I have not time to write two answers I shall endeavor to embrace in one, a reply to all inquiries in your letter and Mr. Sherman's.

I know nothing of the motive for passing the act of December 4, 1847, beyond what appears from the face of it, and shall construe it accordingly.

The act (Laws of 1847, p. 521, Sec. 4) declares that all bankers and banking associations shall be subject to taxation on the full amount of actual capital paid in or secured to be paid in, as such capital by them severally at the actual market value of such securities to be estimated by the Comptroller without any deduction for the debts of such individual banker or banking association.

What is meant here by the word Capital? Does it mean simply the securities deposited with the Comptroller, or does it mean to include also any fund in addition thereto, belonging to the association and appropriated to Banking purposes? It may include either or both, but judging from the context I am inclined to think it is limited to that in the hands of the Comptroller.

The Act of 1838 nowhere speaks of capital as connected with an individual Banker. He deposits his security and is thereby authorized to issue his notes to that amount to circulate as money. They are, however, his own promissory notes for which he is personally liable, as for any other indi-

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vidual debt. He may be sued on them and any property which he hold liable to execution may be taken to pay them. The securities deposited with the Comptroller are entirely collateral, and are intended as an additional security for the Billholder.[1] But they constitute all that can properly be called *capital* applied to that object and are doubtless the capital intended to be taxed by this law. And I think it must be the same in the case of an association.

If these securities consist of Bonds and mortgages the Banker or association is to be taxed for them as so much capital, and if the [ ][2] happens to own the land also on which the mortgage is given he may be taxed for that also, as real estate in the proper town. And I do not think either of these taxes can be diminished in consequence of any debt due from the Bank or individual banker. This may seem to be hard but I think it is the expressed will of the Legislature.

If, however, the association owns real estate not mortgaged as security for its bills, though such real estate be purchased with and be deemed in common parlance a part of its capital, I do not think it is taxable *as capital* under the Act of 1847, but will be taxable as real estate in the proper place.

The truth is that the Legislature regard the securities filed here, as forming an independent subject for taxation. If the mortgage were given by one man and held for banking purposes by another, it is quite clear, that one would be taxed for the land as owner and the other for the mortgage as *capital* and it can make no difference that the owner of the land happens also to be the owner of the mortgage. This double taxation occurs in other cases. If A own a lot of land worth $2000 and mortgage it to B for $2000, A will be taxed for the land as real estate and B for the mortgage as personal property. This is manifestly unjust yet it has long been the law, which taxes a man for his land whether he owes for it or not, as it does a banker for his capital.

1. So in original.
2. Word lacking in original.

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I know of no way of reducing the amount for which a banker or association is liable to be taxed but by a surrender of the securities as specified in the 4th section.

Any proof that satisfies the assessors that this has been done would doubtless be sufficient, but they are not bound to take the owner's affidavit as in the case of personal property.

I send enclosed a statement of the securities deposited here. Their estimated value here is as follows:

Black River Bank	$97,564
Wooster Sherman's Bank	43,372
Henry Keeps Bank	52,000
Bank of Watertown	29,138

All being estimated at par except the latter.

Respectfully yours,

MILLARD FILLMORE,
Comptroller.

TO A DERELICT ASSESSOR.

COMPTROLLER'S OFFICE, ALBANY, May 11, 1848.

O. D. HUNTLEY, ESQ.,
Brice P. O. Montg'y Co.

SIR: In answer to the enquiries contd in yours of the 8th inst. I would respectfully state, that the real estate occupied by any minister of the gospel or priest of any denomination and his personal property amounting in the aggregate to one thousand five hundred dollars are exempt from taxation, and should not be included in the assessment roll; but for all property which he may possess over the $1500, and for all real estate which he may own, but which he does *not occupy*, he is to be assessed. (Revised Statutes, p. 388, Sec. 4 and 5.)

No law was passed during the last session of the Legislature affecting the duties of assessors.

Your last question is in the following words: "Is it lawful to tax (assess) real estate, (as is the custom) for one third its real value, and personal for half its value?"

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How such a custom as that to which you allude can have grown up among a class of officers sufficiently intelligent to understand the English language and sufficiently conscientious to regard the obligations of an oath, is to me incomprehensible.

Every assessor is required, before he enters upon the duties of his office, to take an oath "faithfully to discharge the duties of his office according to the best of his ability." (Constitution, Article 12, Sec. 1.—1 Revised Statutes, p. 345, Sec. 13.)

The duties of assessors in fixing the values of taxable property are declared by statute in language too plain to be misunderstood, and too peremptory to be honestly evaded.

The statute says (1 Revised Statutes, p. 393, Sec. 17): "All real and personal estate liable to taxation, the value of which shall not have been specified by the affidavit of the person taxed, shall be estimated by the assessors *at its full value,* as they would appraise the same in payment of a just debt due from a solvent debtor."

The 26th Section requires that they should append to the assessment roll, an official certificate in which they declare substantially that they have estimated the value of the property mentioned in the roll as above required.

These duties cannot be *faithfully* and *honestly* performed without an exact compliance with the statute. The property should be estimated *at its full value*. If all assessors discharge this duty fearlessly and faithfully, then a proper basis will be laid for the just apportionment of all State taxes, as between county and county, and of all county taxes as between town and town, and of all city taxes as between ward and ward. But any departure from this rule is calculated to do injustice, and no motive of favor to your town, should induce you for a moment to depart from your duty as prescribed by law, and as you have sworn to perform it. It can be no excuse for you, that you apprehend others may do it. The only true rule for every public officer is to discharge his duty faithfully and fearlessly and if others do

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not, they must incur the blame, whilst he will stand acquitted not only by his own conscience but by every virtuous man.

I have said more on this subject in consequence of your remark that this dereliction of duty has grown into a custom. Such a custom is calculated to impair the morals of community, sap the foundations of civil society and bring into contempt the administration of the laws. Hoping that wherever this custom has prevailed it may be corrected, I remain,

Respectfully yours,

MILLARD FILLMORE, *Compt.*

CAYUGA INDIANS' ANNUITY.

COMPTROLLER'S OFFICE, ALBANY, June 13, 1848.

W. P. ANGEL, Esq.,

DEAR SIR: I have yours of the 10th in answer to one written by my Deputy to Dr. Wilson of the 31st ulto. on the subject of paying the annuity to the Cayuga Indians.

It is not easy to determine the duty of this department in reference to this annuity. It seems to me, however, that certain propositions must be admitted by all.

1st. That a treaty between the State and a nation of Indians is a compact which cannot be changed by either party without the assent of the other. All would concede, that the Indians could not change it without the assent of the State, and it seems to me, equally clear, that the State can not change it without the assent of the Indians. If therefore a law has been passed by the State without the assent of the Indians conflicting with a previous treaty between the State and Indians, then as but one can be valid and the other must be void, I think the treaty must prevail.

2d. That a treaty made by the State with a part of a nation of Indians is void so far as it attempts to affect the rights of the other part of the nation, which never gave its assent to the treaty and probably such a treaty is a mere

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nullity from the beginning, as a nation in all its negotiations with other nations is a unit and from its very nature indivisible. It is a corporation and its corporate rights are blended and united in one, and as they exist only in contemplation of law, are indivisible—the whole constitute in law but one person.

Now it appears that several treaties have been made with the Cayugas by which they are entitled to two annuities from this State amounting in all to $2300, and that by a Treaty made Sept. 8, 1831 (3 book of Treaties, Sec'y of States Office, page 105), the whole nation consented and agreed that $1700 of that sum should be paid to that portion of said nation, then residing at Sandusky and about to remove beyond the Mississippi, and the remaining $600 to those residing upon the Seneca Reservation near Buffalo. This treaty stands unrepealed and unchanged, and is therefore obligatory upon me as the agent of the State in the payment of this Annuity.

From what I have heard, I have no doubt that the distribution is now quite unequal, and therefore unjust; and were it in my power to correct it, I would cheerfully do so; but a treaty is too sacred a thing to be changed at the will of one party only whenever such party may think it unjust or unequal. No one has any right to complain but the Indians and they cannot as we are carrying out their *expressed will* by executing the treaty.

If anything were wanting to strengthen this conclusion it would be found in the fact, that this annuity has since the treaty of Sept. 8, 1831, been uniformly paid in pursuance of that treaty and that in July, 1846, that portion of the Cayugas still remaining on the Seneca Reservation, a part of whom were then about to emigrate west of the Mississippi, presented a memorial to the Commissioners of the Land Office, claiming only the $600 given them by the treaty of 1831, and then entered into a new treaty with the State to distribute that $600 equally among those who should remain on the Seneca Reservation and those who should emigrate. (See 3 Book of Treaties, p. 273 to 281.)

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But you say, a similar treaty was made with the Onondagas at the same time, and that a law passed in 1847 has been executed though conflicting with the treaty as the law of 1848 conflicts with the treaty made with the Cayugas. I find no such treaty at that time and I apprehend you refer to the treaty of February 28, 1829. But I do not consider either of those treaties as binding, especially in regard to the apportionment of the annuities, as they show on their face that they were not made with the whole nation but only part. That with the Cayugas was made only with that portion *"residing at Sandusky,"* and that with the Onondagas with that portion only "residing at Buffalo." Hence they could have no binding effect upon the nation at large, and this being the only treaty attempting to apportion the distribution of the Onondaga annuity and being void for the reason stated, I feel at liberty, and in duty bound to distribute that annuity according to the law of 1847.

These in brief are my reasons for the distribution I have made in the two causes, and for the decision of this department as to the mode of paying and distributing said annuities.

Respectfully yours,

MILLARD FILLMORE,

Comptroller.

CANAL IMPROVEMENTS AT BUFFALO.

COMPTROLLER'S OFFICE, ALBANY, June 28, 1848.

HON. O. ALLEN, *Mayor of Buffalo,*

DEAR SIR: I have yours of the 26th and in reply thereto am happy to inform you, that I rec'd your communication in reference to the Bridge over the Canal on Prime Street, and laid the same before the Board. The papers were referred to the Canal Commissioners as they alone by the Act of 1839 (ch. 207, Sec. 1) are authorized and required to construct such bridges. But the Commissioners have had no meeting since the reference. The Board seemed to think

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it was a matter of course almost for the Commissioners to erect such bridges.

The Canal Board took up the subject of our improvements at Buffalo and after examining the subject came to the conclusion, that the Board had no power over the subject, that it was the duty of the Canal Commissioners to go on and perform the work as fast as it could be economically done, and Commissioner Hinds gave us to understand that he should immediately put under contract portions of the work from Hamburgh Street Canal to Big Buffalo Creek and also the Erie Basin, leaving that portion of the latter work nearest the harbor till the last, with the view of obtaining a legislative sanction to a change of the location there, so as to enable ships more easily to enter the basin. I presume he will advertise immediately.

Commissioner Hinds also presented to the Board a project for enlarging the Erie Canal from Erie Street to the Black Rock Harbor, to the width of 120 feet; and said he had already advertised the letting of the work for the 5th July on learning from him, that our citizens had not been consulted in regard to this, the Board postponed any action on the subject to enable me to write to Buffalo and see whether our citizens had any objections to urge to the measure. The letting will be postponed till the 12th of July.

I write in great haste while sitting at the Board, but hope, you will let me hear from you as soon as possible.

It is uncertain how long the Board will sit. It may sit a week. It may not two days.

Respectfully yours,

MILLARD FILLMORE.

THE DUTY OF AN INDIAN AGENT.

COMPTROLLER'S OFFICE, ALBANY, July 25, 1848.

SIR: The Statutes makes it your duty, to portion and *pay* to each of the heads of families of the St. Regis tribe of Indians, under the direction of the Trustees of said tribe,

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their equal share of the Annuity, payable on the first Tuesday of August next. The construction to be given to this language is very important, for if the agent is without discretion, and is bound to pay the Annuity, as the caprice or ill humor of the trustees may dictate, it is apparent that great injustice might be done and that many might be thus arbitrarily excluded from a participation in the Annuity. Altho' this construction might be contended for with some plausibility, it is not reasonable to suppose, however, that the Legislature designed to make the agent a mere automaton. I am therefore of the opinion, that in the distribution of the Annuity you should be governed as well by the sober advice of the unprejudiced trustees, as others, both whites and Indians, who are known to be of good reputation, and acquainted with the customs and usages of the tribe. And I wish it to be distinctly understood, that you can take no part in any religious controversy, which may unfortunately divide the tribe.

Yours respectfully,

MILLARD FILLMORE,

WM. A. WHEELER, Esq., *Comptroller.*
Agent, &c., Malone, N. Y.

FORCED SALE OF BUFFALO CREEK INDIAN LANDS.

COMPTROLLER'S OFFICE, ALBANY, Oct. 18, 1848.

CHARLES L. MAYER, *Esq., Buffalo,*

DEAR SIR: I have yours of the 6th in reference to the lands advertised to be sold on the 20th of November next for taxes, on the Buffalo Creek Reservation, in which you enquire,

"1st. For what taxes are the said lands advertised for sale?"

An answer to this question will appear by the enclosed certificate.

"2d. What shall we do in the premises to save our land from being sold for taxes accrued prior to our title to the land?"

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If the tax be valid I know of no other way but to pay it and then compel your grantors to pay it to you on their covenant aaginst incumbrances. As to the validity of the law, I should not from the slight examination which I have been able to give it be willing to express an opinion. I have however, received notice from Richard H. Ogden of New York that they intend to contest its validity and that they will commence proceedings for that purpose at once. Should they do so that may prevent a sale. Should the sale proceed I shall be willing as far as in my power to protect the innocent purchaser. But in the first place I have no description of the lands yet unsold by the Company, and if I had, possibly no purchaser would be willing to take those and pay the tax and expenses. I cannot therefore give any assurance on that point.

Respectfully yours,

MILLARD FILLMORE.

INTERESTS OF THE CAYUGAS.

COMPTROLLER'S OFFICE, ALBANY, N. Y., Nov. 7, 1848.

HON. W. L. MARCY, *Sec'y of War,*

SIR: About 1831 a portion of the Cayuga Indians removed west of the Mississippi, and a stipulation was then entered into, between them and their brethren here and the State, by which the annuity due the nation was apportioned between those West and those who remained. It is now said by those here, that all who emigrated west are dead, and that a census has recently been taken by your department showing that fact.

I should esteem it a favor if you would give me any information you may possess on that subject.

Respectfully yours,

MILLARD FILLMORE,
Comptroller.

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A TAX SALE RULING.

COMPTROLLER'S OFFICE, ALBANY, Nov. 22, 1848.

MESSRS. E. & S. CROSWELL,

GENTLEMEN: I beg permission, through your paper,[1] to state for the information of all interested, that the Sale of Land for Taxes commenced on Monday last, and will progress by counties in alphabetical order until completed. I find that with the clerical force in my office, it is impossible to continue to receive taxes during the sale, and keep the books posted up. I am therefore compelled to say that no more taxes will be received for the years 1840, '41, '42 and '44, until the sale closes, which will probably be in about four weeks. But those owing taxes need have no apprehension of losing their lands by a sale, as they can redeem them at any time within two years from the close of the sale, without additional charge, except interest at ten per cent. per annum.

MILLARD FILLMORE,
Comptroller.

OGDEN COMPANY'S SUIT AGAINST THE STATE.

COMPTROLLER'S OFFICE, ALBANY, Nov. 23, 1848.

JACOB A. BARKER, *Esq., Buffalo.*

DEAR SIR: I omitted answering your letter in reference to the employment of counsel by the County of Erie, to defend the suit commenced by the Ogden Co. against me to avoid the taxes imposed on the Indian Reservation prior to 1844 till I could see the Attorney General. He is now here

1. The Albany *Argus*. The editor's name is often improperly spelled, even in the encyclopaedias, "Crosswell." Edwin Croswell became State printer and editor of the *Argus* in 1824. For some thirty years of his editorial charge of that journal, which he made a daily, it was perhaps the chief organ in the State of the Democratic party. In 1840, upon the accession of the Whigs to power, Thurlow Weed succeeded Mr. Croswell as State Printer. Mr. Croswell continued in journalism, and a potent factor in New York State politics, until 1854. He died at Princeton, N. J., June 13, 1871.

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and has the papers, and would be happy to have assistant counsel if the County will employ it. The order to restrain the sale is served, and a hearing is to be had here on the 1st Wednesday of December. The land of course will not now be sold. We shall resist the motion for a continuous order to stay, and if we fail, then answer and defend.

Truly yours,

MILLARD FILLMORE.

IN REPLY TO CRITICS.

ALBANY, January 19, 1849.

S. DRAPER, *Esq.*

DEAR SIR: I have yours of the 17th inst. saying that some of the auctioneers have spoken with evident feeling on the subject of my report. I infer from what you say, that they think I intended to charge them with fraud. Certainly it was not my intention to charge any *one* with that offence; and to avoid any unjust, inference against any individual I published the name of every auctioneer with the amt. paid by them for the year ending June 30, 1848. You will perceive by reference to that statement that 9 Houses paid $94,924.71 of the $103,942.23, paid by the whole State, as per memorandum enclosed. I may have been wrong in supposing that any auctioneer sold goods without making due return of duties or that any person not an auctioneer assumed to sell without authority. If so I should deeply regret it. But I humbly conceive that no man who is conscious of having faithfully discharged his duty as an auctioneer, can have any just cause of complaint of my report. I say expressly that it admits of no doubt that there are high-minded and honorable men engaged in this business; and that my object is to protect these men by detecting any of a different class or those unauthorized who defraud the revenue. That there were such, I inferred from the falling off of the revenue. Perhaps I did not make allowance enough in considering this subject for the exemption of

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certain articles and the reduction of duties in 1846. But that reduction & exemption could only affect the year 1847-8, and yet the revenue has been declining since 1827, as will be seen by the table annexed to my report at page 165 and the last ten years shows a diminished revenue of more than half a million of dollars over the ten years preceding. Every one must draw his own inference from these facts, and I am the last person inclined to draw an unfavorable one against [1] Gentlemen who have uniformly borne a good reputation and have made fair and prompt returns to this department of their auction sales. No such person need suppose that he is alluded to in the suspicion thrown out in my report, and so far from any intention to injure such a person my object has been, to sustain and protect him. I am confident you could never have entertained the jealousy alluded to in your letter; and I trust no other man will who has acted with conscious integrity.

I am truly yours,

MILLARD FILLMORE.

RESIGNING HIS OFFICE.

COMPTROLLER'S OFFICE, ALBANY, January 31, 1849.

TO THE LEGISLATURE OF THE STATE OF NEW YORK:

GENTLEMEN: Anticipating that my duty may soon compel me to resign the office which I now hold, and being anxious to avoid any inconvenience which might result from a vacancy, I have thought that the public interest would be best consulted by a resignation to take effect at some future day, which should not only give time for the Legislature to pass a law for filling the vacancy, but also enable it to appoint a successor, and allow him to reach the Capitol before I leave. I therefore respectfully resign the office of Comptroller, to take effect on the 20th day of February next.

I cannot suffer the opportunity to pass, without expressing to you my heartfelt thanks for the courtesy and kind-

1. So in original.

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ness which, on your part, have marked all our official intercourse.

I have the honor to be, your obedient servant,

MILLARD FILLMORE,
Comptroller.

TO PROVIDE FOR INCREASE OF WORK.

COMPTROLLER'S OFFICE, ALBANY, Feb. 2, 1849.

HON. JNO. L. LAWRENCE,
Chairman of the Finance Committee,

SIR: I believe there is a bill pending in the Senate to supply deficiencies in the appropriations for 1848-'9. I have just discovered that the clerk hire for this department is fixed by law at $6,800 (Laws of 1848, ch. 313, p. 442), and that the appropriation was only $6,000 (do. p. 371). But I have been compelled to employ additional clerks whose aggregate salaries amount to $7,300 as will appear by my annual report (p. 154). I think all these clerks will be required for the year. The tax sale has added largely to the labors of the office, and should the resolution of the assembly, passed some time since, requiring a report of lands sold for taxes, remain unrescinded, there will be as much or more than all the clerks can do within the year. I would therefore recommend that you add $1800 to the appropriation of $1500 extra for clerk hire in this department.

Respectfully yours,
MILLARD FILLMORE,
Comptroller.

A PARTING NOTE TO HIS ASSISTANTS.

ALBANY, February 20, 1849.

GENTLEMEN: Your kind note of the 19th inst. was handed me last evening at the moment I was leaving the

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Comptroller's Office for the last time. It was as unexpected as it was gratifying, but I can assure you that every expression of respect and esteem which you were pleased to express towards me is fully and most cordially reciprocated. We have toiled together many months in the public service, and nothing could be more grateful to my feelings than the high appreciation which my fellow laborers have placed upon my services. But I am bound to say that if I am entitled to any credit for the manner in which the duties of that arduous office have been discharged, you are entitled to your full share; and I am happy of this opportunity to bear my testimony to the ability and fidelity with which you have performed every duty assigned you.

We met as strangers—we part as friends; and the only regret I feel at leaving the office is in separating from those with whom my intercourse has been so agreeable and for whose future prosperity and welfare I feel so deep a solicitude. But, wishing you all health and happiness, I reluctantly bid you adieu, and subscribe myself,

Your sincere friend,

MILLARD FILLMORE.

P. PHELPS, Esq., Deputy, and PETER KEYSER, and others, Clerks in the Comptroller's Office.

As Comptroller, Mr. Fillmore made but one official report to the Legislature.[1] [Report dated Albany, Dec. 30, 1848; 8vo, pp. 94.] It is the required review of the fiscal affairs of the State, and treats of the various funds under these heads: General; Canal; Literature; Common School; U. S. Deposit; and the following trust funds: Bank; Free Bank securities; Mariner's fund; Sinking fund of the Auburn & Rochester R. R. Co.; Sinking fund of the Tonawanda R. R. Co.; Sinking fund of the Hudson & Berkshire R. R. Co.; Sinking fund of the Tioga Coal, Iron, Mining & Manufac-

1. Assembly, January 4, 1849; printed Albany, 1849.

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turing Co.; Sinking fund of the Long Island R. R. Co.; School and Gospel fund of the Stockbridge Indians; Indian annuities; New York & Erie R. R. Co. interest fund. The report is particularly full on banking and bank funds, sale of lands for taxes, and tax on mutual insurance companies.

In print and not difficult of access, its publication here in full would not be justified. The portion here given is deemed as of chief historical value.

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BANKING IN NEW YORK STATE

FROM MR. FILLMORE'S REPORT AS COMPTROLLER FOR 1848.

There are now two systems of banking carried on in this State. One is called the Safety Fund System, which was first authorized in 1829. Every bank belonging to this system has received a special act of incorporation from the Legislature. These charters were for a limited period, generally having about twenty years to run. There are seventy-eight of these banks and two branches now in operation, with an aggregate capital of $29,638,860. The charters of some of them will expire in each year until 1866, when the last will terminate.

This system was regulated by a general law (Laws of 1829, ch. 94), which was incorporated into every charter, by which each bank was required to have all its capital paid in before it commenced business, and it was also required annually to contribute one-half of one per cent. upon its capital to a common fund, deposited with the State Treasurer, until such fund should amount to three per cent. upon the capital of each bank, which fund was denominated the "Bank Fund," and was to be applied to the payment of the debts of any insolvent bank contributing to the same; and in case the fund was at any time diminished by payments from it, the banks were again required to make their annual contributions, till each had in deposit the three per cent. on its capital stock. This fund, in common parlance, has been called the "Safety Fund," which has finally given name to the system. Another feature of this system was, that three bank commissioners were to be appointed, with large powers, to supervise and inspect the several banks: the

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State, as representing the whole people, and the banks of a certain district which included the city banks, and the banks of another district which included all the other country banks, each presumed to have antagonistic interests, were to be represented in this commission. It was supposed that each would be a check upon the other. To effect this, the Governor and Senate were to appoint one commissioner, and the banks in the southern part of the State another, and the remaining banks a third. Whether this mode of appointment was found not to answer the expectations of the original projectors, or the dominant party desired to use this power as a political engine, is unknown to the Comptroller; but the law was changed in 1837 (ch. 74), so as to give the appointment of all three to the Governor and Senate.

This, of course, brought them within the vortex of the great political whirlpool of the State; and the place was sought for and conferred upon partisan aspirants, without due regard in all cases to their qualifications to discharge the delicate trust committed to them. This state of things, under the administration of both the great political parties of the State, continued until 843, when the Legislature abolished the office, and conferred the power of examining these banks upon this department, whenever there was reason to suspect that a bank had made an incorrect report, or was in an unsafe or unsound condition to do banking business.

The Free Bank System, as it is styled, was established in 1838 (ch. 260). By this system every individual and association was authorized to engage in the business of banking, and on depositing with the Comptroller the stocks of the United States, or of any State which should be, or be made equal to a five per cent. stock, or such stocks, and bonds and mortgages to the same amount or less, on improved, productive, and unincumbered real estate, worth double the amount secured by the mortgage, over and above all buildings thereon, and bearing interest of at least six per cent. per annum, the Comptroller was required to deliver to such individual, or association, an equal amount of bank notes

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for circulation, duly numbered, registered, and countersigned in his office.

Associations under this law were a species of corporation. They could contract, sue and be sued in the name of their president, and the shares were transferable at the pleasure of the shareholders, who were not liable in their individual capacity for the debts of the association. But there was nothing in the act that required individual bankers to deposit any particular amount of securities before they commenced banking. The country was then flooded with stocks from almost every State, and the consequence was that numerous banks sprung into existence under this law. Repudiation soon followed. Many States that did not repudiate, failed to meet their obligations, confidence was impaired, credit was shaken, and stocks generally depreciated in the market. The consequence was that many banks failed, and the Legislature partially retrieved its errors, in 1840 (ch. 363), by excluding all stocks except those issued by this State and required those to be, or to be made, equal to a five per cent. stock.

Finding the small banks unsafe, the Legislature in 1844, required individual bankers to deposit securities to the amount of at least $50,000; and associations, to the amount of $100,000, before they were entitled to any notes for circulation. The stringency of the money market in 1847, admonished the Legislature that the security of these banks was not sufficient; and in 1848, they required the stocks deposited, to be stocks of this State, and equal to a six per cent. stock; and the bonds and mortgages to bear an interest of 7 per cent. per annum, and that they should not be for an amount exceeding two fifths of the value of the land covered by the mortgage. This is the *free bank system*, as it now stands, and it takes its name from the fact that all are *freely* permitted to embark in it who comply with the rules prescribed. It is no monopoly—no exclusive right granted by the Legislature to a favored few, but is open to all who can give the requisite security.

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Both of these systems have been in operation long enough to test their merits. It is presumed that no one would advise the continuance of both. Two rival systems cannot exist without creating jealousies among those interested, and adding much to the complexity and labor of this department. The time has come when the Legislature must choose between them. That both have defects, no one can doubt. That some of these defects admit of a remedy, is equally clear. Which then is, or can be made the safest and best system under the Constitution as it now stands?

In order to determine this question properly, several things are to be taken into consideration, and the first is, What is the duty of the State in reference to banking? It would, doubtless, be desirable to create banks which would be able to discharge every obligation, not only to the bill-holder, but to the depositors, and all others to whom it should incur any liability. But this is impossible. The safety fund, which was intended to provide such security, would have been ample to redeem all the circulation of the banks which have failed, but it has been exhausted in paying depositors and other creditors of the insolvent banks, and is now mortgaged for all it will probably produce for eighteen years to come. Thus by attempting more than could be accomplished, the Legislature failed to secure the bill-holder, which was in its power, and, for the remaining eighteen years that some of these charters have to run, the safety fund yields him no security. It is apparent, then, that security for all liabilities can not be provided, and the State is under no more obligation to attempt this impossibility than it would be the equally absurd one of making every merchant capable of meeting all the obligations he should incur.

It is humbly conceived the duty of the State in this case begins and ends with furnishing a good and safe currency to the people. To furnish this currency, so far as it consists of paper or credit, is an exclusive privilege granted by the State, and the State should take care that in granting it the people are secured from imposition and loss. Any man

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may receive deposits, or discount a note, or loan money, or draw a bill of exchange.

These, it is admitted, are banking operations. But they are open to all. Those who engage in them enjoy no exclusive privilege. But not so with those who are authorized to issue bank notes to circulate as money. This is a banking operation confined to the few. It is a prerogative enjoyed exclusively by the money kings of the country, and they should not enjoy it without giving the most ample security. This duty is justly imposed for the privilege which is granted.

Assuming, then, that the great object of legislation on this subject is to provide a sound currency by giving ample security to the bill-holder, the question is, how can this best be accomplished? It must be borne in mind that safety fund banks derive much of their credit from the individuals who were incorporated. By granting a special charter in each case, the Legislature had in its power in some measure to control this matter.

But there was an attendant evil that in the opinion of many outweighed the good. The practice of granting exclusive privileges to particular individuals invited competition for these legislative favors. They were soon regarded as a part of the spoils belonging to the victorious party, and were dealt out as rewards for partisan services.

This practice became so shameless and corrupt that it could be endured no longer, and in 1838 the Legislature sought a remedy in the general banking law. This was the origin of the free bank system. Since that time no safety fund bank has been chartered; and in 1846 the people set their seal of reprobation upon this practice of granting special charters for banks, by providing in the new Constitution that "the Legislature should have no power to pass any act granting special charter for banking purposes, but that corporations or associations might be formed for such purposes under general laws."

Would it be safe, then, to provide by general law that voluntary associations or incorporations might be formed

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anywhere and by any persons for banking? The Comptroller thinks not. Suppose they were required to pay in all their capital, and the most satisfactory proof should be required of this fact. Even this is no security to the bill-holder. They can withdraw it at pleasure. It would only be necessary for those who wished to practice a fraud upon the credulity of the community, and reap a golden harvest, to associate together and form a bank, pay in a large capital, appoint one of their associates president, and another cashier, to take charge of it; prove to this department these facts, and obtain bills for circulation to an equal amount, and then pay them out for property easily transported—take their capital and leave for California, and in one week would be beyond the reach of process or the power of coercion.

But it has been suggested that each bank might be required to deposit a certain amount, say ten per cent., in the treasury, to constitute a fund for the redemption of its bills. So far as this deposit goes it may be safe. It is on the principle of the free bank system. But if the deposit be intended for the redemption of the bank only which makes the deposit, it is wholly inadequate. It is no more than the banks under the old safety fund system paid to the general fund. Their charters had twenty years to run. They paid half of one per cent. per annum, making in all ten per cent. To say that one dollar is deposited as a security for the redemption of ten, is a mockery.

But it may be said that the bills constitute a common fund for the redemption of the bills of the insolvent banks only. Then as many which are solvent will not want it, there will be enough to redeem all the bills of those which shall prove insolvent. This is doubted. This fund, instead of being sufficient to redeem the notes of all insolvent banks, would probably for a time give just credit enough to the fraudulent associations which would be formed, to enable them to get their notes in circulation, and then by withdrawing their capital the more effectually defraud the com-

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munity. It is believed to be wholly inadequate for the object intended.

The Comptroller believes that the safest way to make a sound paper currency, is to have at all times ample security for its redemption in the possession of the State. In order to make this security ample, it should not be only sufficient in amount, but should be of such a nature that it may readily be converted into cash without loss. It is not enough that the security be ultimately good or collectable; delay in redeeming the circulation causes it to depreciate, and is almost as fatal to the poor man who can not wait, as ultimate insolvency. He becomes at once the victim of the broker.

A bond and mortgage may be good—that is, the whole amount secured by them may be collectable. But the bill-holder can not wait for this. They must be convertible into cash by sale, and if for any reason this can not be promptly done, they are not of that kind of security which should be required. All the experience of this department shows that bonds and mortgages are not the best security for this purpose, and while better security can be had it is deeply to be regretted that they were ever received. The apprehension that there may be a defect of title, that the lands mortgaged may be appraised too high, or that there may be some legal defense to a suit of foreclosure, all conspire to depreciate their value in the estimation of purchasers, when offered for sale at auction on the failure of a bank.

Capitalists are cautious about purchasing, and the consequence is that they have sometimes sold for less than twenty per cent. on the amount received by them, and the average amount for which all have been sold, for the last ten years, is only thirty-seven and seventy-one hundredths per cent., while the average amount for which the five per cent. stocks of this State have sold is ninety-two eighty-six one-hundredths per cent., or ninety-two dollars and eighty-six one-hundredths for every one hundred dollars of stock. This shows that a six per cent. stock, such as is now required, would doubtless have sold at par, and the bill-holder would have received dollar for dollar for the circulation.

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Should the country remain at peace, it can not be doubted that the stocks of the United States will be a safe and adequate security. The Comptroller would therefore recommend that the law be so changed as to exclude bonds and mortgages from all free banks which shall hereafter commence business, and to prevent the taking of any more from those now in operation, and to require that ten per cent. per annum of those now held as security be withdrawn, and their places supplied by stocks of this State, or of the United States. If this recommendation be adopted, at the end of ten years the whole security will be equal to a six per cent. stock of this State or of the United States, which it is presumed will be ample security for the redemption of all bills in circulation.

Could this system of banking be generally adopted in the several States, it can hardly be doubted it would prove highly beneficial. It would create a demand for their own State stocks. The interest paid upon them would be paid to their own citizens. Every man who held a bank note, secured by such stock, would have a direct interest in maintaining inviolate the credit of the State. The blasting cry of "repudiation" would never again be heard, and the plighted faith of the State, would be as sacred as national honor; and lastly, it would give them a sound and uniform currency.

If, then, in addition to this, Congress would authorize such notes as were secured by stocks of the United States, to be received for public dues to the national treasury, this would give to such notes a universal credit, co-extensive with the United States, and leave nothing further to be desired in the shape of a national paper currency. This would avoid all objection to a national bank, by obviating all necessity for one, for the purpose of furnishing a national currency. The National Government might be made amply secure. The law might provide that all bills secured by United States stock should be registered and countersigned in the Treasury Department, as the notes circulated by the banks in this State are registered and countersigned in this office. This would enable every collector, postmaster, or

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other receiver of public moneys, to know that they were receivable for public dues.

The stock of the United States by which their redemption was secured, might be so transferred to the State officer holding the same, that it could not be sold or transferred by him without the assent of the Secretary of the Treasury, and in case of the failure of the bank to redeem its notes, it might be optional with the Secretary of the Treasury to exchange the notes held by the Government for an equal amount of United States stock held for their redemption, or let it be sold and receive the Government's share of the dividends. In this way the National Government would always be secure against loss.

But this suggestion is foreign from the chief object of this report, and is merely thrown out to invite attention to the subject. But in conclusion, the Comptroller has no hesitation in recommending that the free bank system be modified in the particulars above suggested, and that it be then adopted in preference to the safety fund system, as the banking system of this State.

It can not be supposed that the banking under this system will be as profitable as it has been under the safety fund system. It is therefore desirable that every facility should be given to capitalists who engage in it that can be granted consistent with the security of the public, and that no unreasonable or unjust system of taxation should be adopted which discriminates invidiously against them; but persons engaged in banking should be taxed like all other citizens.

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MR. FILLMORE

AS VICE-PRESIDENT

OF THE UNITED STATES

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FILLMORE AS VICE-PRESIDENT

As Vice-President, Mr. Fillmore was presiding officer of the United States Senate. At the opening session, March 4, 1849, he addressed the Senate as follows:

ADDRESS TO THE SENATE.

SENATORS: Never having been honored with a seat on this floor, and never having acted as the presiding officer of any legislative body, you will not doubt my sincerity when I assure you that I assume the responsible duties of this chair with a conscious want of experience and a just appreciation that I shall often need your friendly suggestions, and more often your indulgent forbearance.

I should indeed feel oppressed and disheartened did I not recollect that the Senate is composed of eminent statesmen, equally distinguished for their high intellectual endowments and their amenity of manners, whose persuasive eloquence is so happily tempered with habitual courtesy as to relieve your presiding officer from all that would be painful in the discharge of his duty, and render his position as agreeable as it must be instructive.

Thus encouraged and sustained, I enter upon the duties assigned me, firmly resolved to discharge them with impartiality and to the best of my ability. But, I should do injustice to the grateful emotions of my own heart, if I did not on this occasion express my warmest thanks for the distinguished honor that has been conferred upon me in being called by the voice of the nation to preside over your deliberations.

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It will not, I trust, be deemed inappropriate to congratulate you on the scene now passing before us. I allude to it in no partisan aspect, but as an ever-recurring event contemplated by the Constitution. Compare the peaceful changes of chief magistrate of this Republic with the recent sanguinary revolutions in Europe.

There the voice of the people has only been heard amid the din of arms and the horrors of domestic conflicts; but here in our favored land, under the guidance of our Constitution, the resistless will of the nation has from time to time been peaceably expressed by the free will of the people, and all have bowed in obedient submission to their decree.

The Administration which but yesterday wielded the destinies of this great nation, today quietly yields up its power, and, without a murmur, retires from the Capital.

I congratulate you, Senators, and I congratulate my country upon these oft-recurring and cheering evidences of our capacity for self-government. Let us hope that the sublime spectacle we now witness may be repeated as often as the people shall desire a change of rulers, and that this venerated Constitution and this glorious Union may endure forever.

In the discharge of his duties as Vice-President, Mr. Fillmore does not appear to have made any other formal address, although on various occasions his remarks from the chair, especially in regard to rules of order, were of marked significance.[1]

1. On retiring from the Vice-Presidency, in consequence of the death of President Taylor, Mr. Fillmore addressed a short letter to the Senate. This will be found in place among his official correspondence, in pages following.

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ADDRESS TO THE SENATE

ON THE PRESERVATION OF ORDER IN THAT BODY

On April 3, 1850, Vice-President Fillmore asked the indulgence of the Senate, before proceeding to the orders of the day, to submit the following remarks in relation to his own powers and duty in preserving order:

On assuming the responsible duties as presiding officer of this body, I trusted that no occasion would arise when it would become necessary for the Chair to interpose to preserve order in debate. I could not, however, disguise the fact, that by possibility such a necessity might arise. I therefore inquired of some of the Senators to know what had been the usage on this subject, and was informed that the general practice had been, since Mr. Calhoun acted as Vice-President, not to interfere unless a question of order was made by some Senator.

I was informed that that distinguished and now lamented person had declined to exercise the power of calling to order for words spoken in debate, on the ground that he had no authority to do so. Some thought the rule had been since changed, and others not; but there still seemed to be a difference of opinion as to the power. Under these circumstances, though my opinion was strongly in favor of the power—with or without a rule to authorize it—I thought it most prudent not hastily to assume the exercise of it, but to wait until the course of events should show that it was necessary. It appears to me that that time has now arrived,

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and that the Senate should know my opinion on this subject, and the powers which, after mature reflection, I think are vested in the Chair, and the corresponding duties which they impose. If I am wrong in the conclusions at which I have arrived, I desire the advice of the Senate to correct me. I therefore think it better to state them now, when there is an opportunity for a cool and dispassionate examination, rather than wait until they are called into action by some scene of excitement which may be unfavorable to dispassionate deliberation and advice; for while I would shrink from no responsibility which the office with which I am honored imposes upon me, I would most scrupulously avoid the assumption of any power not conferred by the Constitution and rules of this body.

The question, then, presents itself, "Has the Vice-President, as presiding officer of this body, the power to call a Senator to order for words spoken in debate?"

The 6th rule of the Senate is in the following words:

"When a member shall be called to order by the President, or a Senator, he shall sit down; and every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order."

It will be seen that this rule does not expressly confer the power of calling to order either upon the President or a Senator, but impliedly admits that power in each, and declares the consequences of such call.

The constitutional provisions bearing upon this subject are very brief. The first is:

"The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided."

The next is:

"Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member."

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The first clause which I have quoted confers no express powers; yet the general powers and duties of a presiding officer in a parliamentary body were well understood by the framers of the Constitution, and it can hardly be doubted that they intended to confer upon the Vice-President those powers, and require of him the performance of those duties. But the power expressly conferred to make rules to regulate its proceedings, clearly conferred upon the Senate authority to make rules regulating the conduct of all its members, including its presiding officer. What, then, are we to understand from this rule?

I have availed myself of the leisure afforded by the last recess to look into the history of this rule, that I might, if possible, gather from it the *intent* of the Senate in adopting it. I find that one of the first acts of this body, in 1789, was to appoint a committee to "prepare a system of rules for conducting business in the Senate."

That committee reported a number of rules, which were adopted, and among the rest the two following:

"16th. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

"17th. If the member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter."

These rules remained the same until 1828; but in 1826 Mr. Calhoun, then Vice-President, declared that, in his opinion, he had no authority to call a Senator to order for words spoken in debate. In 1828 the rules were referred to a committee for revision, and were reported without any amendment to these rules; but, when they came up for consideration in the Senate, they were amended so as to read as they now do, namely:

"6th. When a member shall be called to order by the President or a Senator, he shall sit down; and every question of order

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shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order.

"7th. If the member be called to order by a Senator for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter."

It will be seen, by comparison, that the proposed rule expressly recognized the authority in the President to call to order, and gave an appeal from his decision, which the former rules did not. It also made a distinction between a call to order by the President, and by a Senator, for words spoken, by requiring in the latter case that the objectionable words should be reduced to writing, but not in the former. On this amendment a long and interesting debate sprung up, which may be found in Gales & Seaton's "Register of Debates," vol. 4, part 1, pages 278 to 341; and in this debate, though Senators differed widely as to the power of the President to call to order without the amendment, and as to the policy of adopting it, yet all seemed to concede that, if adopted, he would have such power, and the amendment was finally agreed to by a vote of more than two to one; and thereupon it is reported that Mr. Calhoun,

"The Vice-President then rose and said he took this opportunity to express his entire satisfaction with that portion of the amendment giving to Senators the right of appeal from the decision of the Chair, as it was not only according to strict principle, but would relieve the Chair from a most delicate duty. *As to the power conferred upon the Chair*, it was not for him to speak; but he assured the Senate that he should always endeavor to exercise it with strict impartiality."

It appears to me, then, with all due respect to the opinions of others, that this rule recognized the power to call to order in the Vice-President, and by implication, at least, conferred that power upon him.

The next question is, Does the possession of the power impose any duty to exercise it? The power, it will be seen, is conferred equally upon the Chair and every member of

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the Senate, and in precisely the same language. Is the duty, then, more imperative upon the President than upon any and every member of the Senate to perform the unpleasant but necessary task of exercising it? There is a marked distinction between this rule and the corresponding rule of the House of Representatives. By the 22d rule of that body, a member *may* call to order, but it is made the imperative duty of the Speaker to do so. The words are:

"If any member, in speaking or otherwise, transgresses the rules of the House, the Speaker *shall*, or any member *may*, call to order," etc.

It is perhaps to be regretted, if the Senate desires that its presiding officer shall perform this delicate and ungracious duty, that its rule had not been equally explicit with that of the House. The reason why Senators so seldom interfere by calling each other to order is, doubtless, because they fear that their motives may be misunderstood. They do not like to appear as volunteers in the discharge of such an invidious duty. The same feelings must, to some extent, operate upon the Chair, unless his duty be palpable. But, upon mature reflection, I have come to the conclusion, though the authority be the same, yet that the duty may be more imperative upon the Chair than upon a Senator; and that, if the painful necessity shall hereafter arise, I shall feel bound to discharge my duty accordingly. I shall endeavor to do it with the utmost impartiality and respect. I know how difficult it is to determine what is and what is not in order—to restrain improper language, and yet not abridge the freedom of debate. But all must see how important it is that the first departure from the strict rule of parliamentary decorum should be checked, as a slight attack, or even insinuation, of a personal character, often provokes a more severe retort, which brings out a more disorderly reply—each Senator feeling a justification in the previous aggression.

There is, therefore, no point so proper to interpose for the preservation of order as to check the first violation of it.

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If, in my anxiety to do this, I should sometimes make a mistake, I am happy to know that the Senate has the remedy in its own hands, and that by an appeal my error may be corrected without injury to any one. Or if I have wholly mistaken my duty in this delicate matter, the action of the Senate will soon convince me of that fact, and in that event I shall cheerfully leave it to the disposition of the Senate. But I have an undoubting confidence that, while I am right, I shall be fully sustained.

I trust I shall be pardoned for making one or two suggestions on some points of minor importance. This body has been so long and so justly distinguished for its dignity and decorum, that I cannot but apprehend that some neglect on my part renders these remarks necessary. We all know that many little irregularities may be tolerated in a small body, that would cause much disorder in a large one. The Senate has increased from twenty-six to sixty members. The natural tendency of the increase of members is to relax the discipline; so that when the strict observance of rules is most essential to the dignity and comfort of the body, it is the most difficult to enforce it.

The second rule is a very salutary one, but perhaps too stringent to be always strictly observed in practice. It reads as follows:

"No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper, while the journals or public papers are reading, or when any member is speaking in any debate."

Mr. Jefferson, in his "Manual" (p. 140), which seems to be a code of common law for the regulation of all parliamentary bodies in this country, says that no one is to disturb another in his speech, etc., *nor to pass between the Speaker and the speaking member*. These are comparatively trifling matters; and yet the rules and law of the Senate would seem to require that its presiding officer should see them enforced. I trust, however, that it is only necessary

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to call attention to them, to insure their observance by every Senator.

But a practice seems to have grown up of interrupting a Senator when speaking by addressing him directly, instead of addressing the Chair, as required by the rule.

The "Manual" declares that it is a breach of order for one member to interrupt another while speaking, unless by calling him to order if he departs from it. It seems to me that the case should be a very urgent one, indeed, that can justify one member in interrupting another while speaking, and that all would find it to their advantage if this rule were more strictly enforced than it has been, and that in all cases the Senator rising to explain should address the Chair, as required by the rule.

As presiding officer of the Senate, I feel that my duty consists in executing its will, as declared by its rules and by its practice. If those rules are too strict, it would be better to modify than violate them. But we have a common interest and feel a common pride in the order and dignity of this body; and I therefore feel that I can appeal with confidence to every Senator to aid me in enforcing these salutary regulations.[1]

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1. The Senate Journal records no other action taken by the Senate, on the above remarks, than to order them entered on the Journal and printed. It is matter of record, however, that certain disorderly tendencies in the Senate were checked, and the rules more scrupulously observed, in consequence of Mr. Fillmore's remarks.

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MR. FILLMORE

AS PRESIDENT

OF THE UNITED STATES

JULY 10, 1850, TO MARCH 4, 1853

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MR. FILLMORE AS PRESIDENT

OF THE UNITED STATES

JULY 10, 1850, TO MARCH 4, 1853

The Messages and Proclamations of Millard Fillmore, during his term as President, are easy of access in print and need not be republished here. They can readily be consulted in Vol. V. of the "Messages and Papers of the Presidents," compiled by James D. Richardson, published by authority of Congress, 1900. The following calendar of them, however, will be found useful in the present connection, for it indicates the range and character of subjects which came before Mr. Fillmore, and on which he wrote, while he was President. Many of the special Messages are mere formal memoranda stating that reports and documents are transmitted. Even in those cases, however, the subject-matter may be presumed to have received more or less of study from the Executive. On many of the matters indicated he wrote at length, and with his customary clearness and impartiality.

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SPECIAL MESSAGES TO THE SENATE AND HOUSE OF REPRESENTATIVES

1850.

July 10. Recommending suitable measures on the death of President Zachary Taylor.

Aug. 6. Transmitting letters from the Governor of Texas, and discussing the authority of the Legislature of that State to extend its civil jurisdiction over unorganized counties on its northwestern limits; the claim of Texas to territory east of the Rio Grande; the status of New Mexico; and allied topics. [A long and important communication.]

8. Supplementary to the message of August 6th.

Sept. 23. Informing Congress that it was the wish of President Taylor's family that his remains be buried in Kentucky. [The body of General Taylor was taken from Washington to Louisville, Ky., October 25, 1850.]

Dec. 2. First annual message. [Principal topics discussed: The appointing power of the Executive; construction of a ship canal between the Atlantic and Pacific, through Nicaragua; commerce with Chili; treaty with the King of the Hawaiian Islands; adjustment of import duties; need of a mint in California; need of opening a line of communication between the Mississippi and the Pacific; extension of land laws to California, Utah and New Mexico; problems of the Mexican frontier; reduction of domestic postage rates; need of various internal improvements; recommending the establishment of an agricultural bureau.]

13. Regarding the northern and western boundaries of Texas.

1851.

Dec. 2. Second annual message. [Principal topics discussed: Cuban filibustering operations of August, 1851; trade reciprocity with Canada; the mission of Louis Kossuth and the case of the Hungarian prisoners in Turkey; advocating independence of Hawaii; outbreaks on the Mexican frontier; Tehuantepec railroad enterprise; Panama railroad; commerce with China; the nation's finances; relations with Texas; modification of the

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tariff; need of an agricultural bureau; need of improvements of harbors of the Great Lakes and seacoast; protection of the southwestern frontier; the Arctic expedition of Lieut. DeHaven, in search of Sir John Franklin; needs of the Navy; of the Postoffice and other Departments; urging a revision of the Public Statutes of the United States; on the enforcement of existing laws relating to the return of fugitives from labor (so-called "Fugitive Slave law").]

1852.

Jan. 19. Relative to payment of Mexican indemnity.
20. Respecting recent political occurrences in France.
Feb. 10. Respecting the attack on the United States steamer Prometheus in the harbor of San Juan de Nicaragua by the British brig of war Express.
10. Transmitting report of Thomas U. Walter, architect, for the extension of the Capitol.
16. Relating to delays in completing the convention with Brazil.
Mar. 1. Transmitting documents embodying rules and regulations for masters, officers and seamen of United States vessels at the free ports of China.
4. Relating to erection of public buildings in the Territory of Minnesota.
26. Regarding the "fraudulent abstraction" of papers relating to the treaty of Guadaloupe Hidalgo.
Apr. 19. Relating to the conflict among the authorities in the Territory of Oregon in regard to proper construction of Acts of Congress, affecting location and erection of public buildings.
June 11. On the disorders on the Rio Grande frontier.
14. On claims of Spanish subjects in New Orleans, injured by the mob, consequent to the unlawful invasion of Cuba in August, 1851.
July 2. On the relief by Congress of Americans and others associated with them, lately imprisoned and pardoned by Spain.
Dec. 6. Third annual message. [Principal topics discussed: Death of Daniel Webster; fisheries on the British-American coasts; affairs of Cuba; treaties and conventions with Central and South American States; our growing interests on the Pacific; the tariff; treaties with Indian

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tribes; removal of the Seminoles; survey of the Northern Iowa boundary; survey of the Rio Grande; the embellishment of the city of Washington; reorganization of the Naval Academy; renewing recommendations of former messages, and counseling non-interference with affairs of other nations.]

[The suppressed portion of this Message, relating to slavery, is printed at the end of this list of Messages and Proclamations.]

1853.

Jan. 17. Relative to the case of the vessel Amistad.
18. Relative to the failure of efforts to induce Florida Indians to migrate west of the Mississippi.
Feb. 7. Relative to fisheries and commercial reciprocity with the British-American provinces.
9. Transmitting Lieut. Herndon's report on the exploration of the valley of the Amazon and its tributaries.
18. Relating to the interoceanic canal by the Nicaragua route.

SPECIAL MESSAGES TO THE SENATE

1850.

July 15. Transmitting treaty between the United States and Peru.
17. Relating to proclamation by the military officer commanding in New Mexico.
17. Relating to coast survey, mouth of the Rio Grande and vicinity.
20. Transmitting for ratification a convention between the United States and Mexico for the extradition of fugitives from justice.
23. Relating to a treaty with the Wyandott Indians.
30. Relating to alleged stopping and search of American vessels on the high seas by the British.
Aug. 2. Relating to the removal of Fort Polk.
10. Transmitting results of investigations by Henry R. Schoolcraft, relating to history and condition of Indian tribes in the United States.
24. Relating to commerce of the district of Brazos Santiago in Texas.
26. Relating to coast survey at mouth of the Rio Grande and vicinity.

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Sept. 2. Relating to resignation of Edward C. Anderson, a lieutenant in the Navy.
9. Relating to certain provisions of the treaties between the United States, China and the Ottoman Porte.
9. Transmitting a copy of the constitution of New Mexico, with a digest of the votes for and against it.
16. Relating to nomination of John Howard Payne as consul to Tunis.
27. Transmitting papers relative to the Hungarian exiles.
28. Relating to Lieut. Edward C. Anderson.
Dec. 12. Transmitting report of Secretary of State on the African slave trade.
17. Relative to creating additional grades of commissioned officers in the Army, and regarding civil functions of Army officers.
30. Transmitting report of Secretary of State, and correspondence with the Austrian *chargé d'affaires* regarding the condition and prospects of the Hungarian people during their struggle for independence.

1851.

Jan. 10. Regarding discipline of the Navy.
Feb. 3. Transmitting report and papers relative to the possessory rights of the British Hudson's Bay Company in Oregon.
12. Transmitting report of Secretary of State, and correspondance with Spain relative to the claim of the owners of the schooner Amistad for compensation on account of the liberation of negroes on board said vessel.
13. Relating to drafts on the Treasury of the United States by Mexico on account of indemnity due that Government in persuance of the treaty of Guadaloupe Hidalgo.
13. Relating to the British ship Albion, seized in Oregon for alleged violation of revenue laws.
15. Relating to seizure of the Albion.
15. Relating to taxation by New Grenada on United States citizens when *in transitu* across the Isthmus of Panama, and to the United States mail service at the Isthmus.
19. Relating to the forcible resistance to the execution of the laws of the United States, in Boston.
25. Transmitting a convention between the United States and Mexico for the protection of a transit way across the Isthmus of Tehuantepec.
26. Relating to claims of certain citizens of Portugal.

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27. Transmitting correspondence relative to prisoners captured by Spanish authorities at or near the island of Contoy, and to projected expeditions to Cuba.
28. In relation to difficulties between the British authorities and San Salvador.

Mar. 3. Transmitting report of the Secretary of State and documents respecting forcible abduction of any citizen of the United States from the Territory of New Mexico and his conveyance within the limits of the Mexican Republic.
4. Renewing nominations pending before preceding session of the Senate.
10. Transmitting report and correspondence with the United States Minister at Constantinople respecting the liberation of Kossuth and his companions.

Dec. 12. Submitting a treaty between the United States and Costa Rica.
15. Relating to the free navigation of the St. Lawrence, St. John, and other rivers, and to the free enjoyment of the British North American fisheries by United States citizens.
15. Relating to the seizure of the American steamship Prometheus by a British vessel of war on the Mosquito Coast.
16. In regard to imprisonment of John S. Thrasher at Havana.
16. On the subject of a ship canal between the Atlantic and Pacific oceans.

1852.

Jan. 3. Nominating Indian commissioners.
6. In relation to certain donations in aid of the reconstruction of the library of the Canadian Parliament.
22. Regarding claims of citizens of California for services rendered and for money and property furnished in 1846 and 1847 in the conquest of that country.

Feb. 9. Transmitting a treaty between the United States and the Republic of Peru.
12. Relating to the mission to Eastern Asia of Mr. Balistier, late consul at Singapore.
13. Transmitting treaties with Indian tribes.
16. Transmitting a treaty of commerce and navigation with Persia.

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Mar. 29. Relating to the extension of the Capitol.
29. Relating to appointment of George C. Laurason as collector of customs for the district of New Orleans.
Apr. 8. Relating to the relations between the United States and Japan.
May 1. Transmitting a convention between the United States and the Free and Hanseatic Republics of Hamburg, Bremen and Lubeck.
5. Concerning relations between the United States and Guatemala.
29. Regarding claims of certain citizens of Texas against the Mexican Government.
June 1. Transmitting eighteen treaties negotiated with Indian tribes in California.
11. Transmitting for ratification a convention between the United States and the Sultan of Borneo.
22. On the subject of the apprehension and imprisonment by the Austrian authorities of Rev. Charles L. Brace, an American citizen.
22. Transmitting a convention for the mutual delivery of criminals, fugitives from justice, in certain cases between the United States on the one part and Prussia and other States of the Germanic Confederation on the other.
23. Relative to the withdrawal of Mr. Hülsemann, *chargé d'affaires* from Austria to the United States.
26. Regarding mutual extradition of fugitives from justice in the United States and Mexico.
26. Regarding relations between the United States, Great Britain, Nicaragua and Costa Rica.
26. Respecting proposed propositions of the King of the Sandwich Islands to convey the sovereignty of those islands to the United States.
July 1. Relating to unauthorized publication in public journals regarding pending negotiations between the British Minister and the Secretary of State for the adjustment of certain claims to territory between Nicaragua, Costa Rica and the Mosquito Indians.

[This publication roused Mr. Fillmore out of his accustomed serenity. He wrote to the Senate: "I have caused immediate inquiry to be made into the origin of this highly improper publication, and shall omit no proper or legal means for bringing it to light. Whether

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it shall turn out to have been caused by unfaithfulness or breach of duty in any officer of this Government, high or low, or by a violation of diplomatic confidence, the appropriate remedy will be immediately applied, as being due not only to this Government, but to other Governments. . . . An occurrence of this kind can not but weaken the faith so desirable to be preserved between different Governments and to injure the negotiations now pending, and it merits the severest reprobation."]

2. Transmitting a treaty with the Chickasaw nation of Indians.
26. Relating to the boundary line between the United States and Mexico.
27. Respecting a right-of-way across the Isthmus of Tehuantepec.
29. Upon the subject of the American and Mexican boundary commission.
31. Transmitting nineteen treaties with various Indian tribes of Oregon.

Aug. 2. Regarding fisheries on the coasts of British North American possessions.
10. Regarding relations with San Salvador.
12. In regard to controversies between the consul of the United States at Acapulco and the Mexican authorities.
13. In regard to relations between the United States, Nicaragua and Costa Rica.
14. Declining to give information regarding the alleged proposition of the King of the Sandwich Islands to transfer his sovereignty to the United States.
21. Transmitting documents concerning the Lobos Islands.
27. Transmitting documents relating to service of Mr. R. M. Walsh as special agent of the United States in the island of San Domingo.
27. Transmitting report relative to the Lobos Islands.
27. Relating to Mr. R. M. Walsh.
27. Transmitting a convention relative to commerce and navigation between the United States and the Netherlands.
27. Transmitting a convention between the United States and Belgium, for regulating the right of inheriting and acquiring property.

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31. Relating to foreign postal arrangements and cheap ocean postage.

Dec. 7. Transmitting a treaty between the United States and Uruguay.

8. Relating to criminals, fugitives from justice.

1853.

Jan. 4. In regard to a new British colony in Central America.

4. Relating to Cuba.

12. Relating to investment of funds of the Chickasaw Indians.

12. Relating to the Mexican boundary commission.

17. Relating to the imprisonment of the United States consul and other American citizens in the castle at Acapulco.

21. Relative to Central America.

24. Relative to the award of the Emperor Louis Napoleon of France in the case of the brig General Armstrong.

27. Relative to Nicaragua, Costa Rica, and the territory claimed by the Mosquito Indians.

Feb. 3. Transmitting a new draft of the convention of 1850 with the Swiss Confederation.

3. Relating to the postal convention between the United States and Great Britain.

14. Relating to the extradition of fugitives from justice—convention between the United States and Belgium.

18. Transmitting convention between the United States and Great Britain for the establishment of international copyright.

19. Relative to fisheries on the coasts of Florida.

21. Relative to a water supply for Washington and Georgetown.

21. In reference to the reinvestment of moneys belonging to the Chickasaw Indians.

23. Transmitting a convention between the United States and Great Britain for the adjustment of claims of citizens of those countries.

25. Transmitting a convention between the United States and the Emperor of the French.

26. Relative to an extraordinary session of the Senate.

28. In regard to fisheries on the coasts of British North American provinces.

28. Transmitting a treaty with the Apache Indians in New Mexico.

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SPECIAL MESSAGES TO THE HOUSE OF REPRESENTATIVES

1850.

July 18. Transmitting information relative to the British seizure of the island of Tigre, "in the State of Nicaragua"—corrected to read, "in the Gulf of Fonseca, in the State of Honduras."

Dec. 9. Relative to incursions of Indians of the United States upon the population of the Mexican frontier.

1851.

Jan. 3. As to compensation for extra help in the office of the Attorney General.

14. As to relative rank, precedence and command among officers of the Army and Navy.

Mar. 1. Transmitting opinions of the Attorneys-General.

Dec. 23. Relative to the conclusion of a treaty between Spain, France and Great Britain in respect to the island of Cuba.

23. In regard to the imprisonment, trial and sentence of John S. Thrasher in the island of Cuba.

1852.

Jan. 2. In relation to certain donations in aid of the reconstruction of the library of the Canadian Parliament.

9. Transmitting information in regard to the Territory of Utah.

12. Relating to a circular issued by the Secretary of State for the British Colonial Department relative to the employment in the British West India colonies of free blacks and liberated slaves from the United States.

16. Relating to affairs of the Territory of Utah.

23. Relating to the Mexican indemnity.

28. Relating to the seizure and confiscation of the bark Georgiana of Maine, and the brig Susan Loud of Massachusetts, by Spanish or Cuban authorities.

28. Relating to claims of citizens of the United States on the Government of Portugal.

Feb. 12. Relating to the seizure of the brig Arve at Jeremie, St. Domingo, by Haytien authorities.

18. Respecting an alleged misunderstanding between Capt. Long of the United States Navy and Louis Kossuth.

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Mar. 4. Relative to accounts of Prosper M. Wetmore, late Navy agent in the city of New York.

25. Transmitting documents relating to the encouragement of the emigration of colored laborers from the United States to the British West Indies.

26. Relative to the seat of government of the Territory of Oregon.

Apr. 6. Transmitting documents on the best mode of improving the navigation of the Ohio River at the Falls of Louisville.

July 13. Relative to the policy of the Government in regard to the island of Cuba.

Aug. 9. On fisheries, and the dispatch of the U. S. steam frigate Mississippi to the fishing-grounds on the coasts of British North America, to protect the rights of American fishermen.

1853.

Jan. 19. Relative to the claims on Spain in the cases of the bark Georgiana and brig Susan Loud.

24. In reference to claims of custom-house officers for additional pay.

27. In reference to the compensation of weighers and gaugers.

PROCLAMATIONS

1850.

Nov. 1. Suspending and discontinuing tonnage and impost duties on vessels and goods from Chile, to continue during a reciprocal exemption on the part of Chile, in regard to vessels and goods from the United States.

Dec. 13. Declaring in full force an act of Congress of Sept. 9, 1850, said act relating to the northern and western boundaries of Texas; stipulating the cession by Texas to the United States of all claim to territory exterior to those limits; relinquishment of all claim by Texas on the United States for liability for the debt of Texas; the payment to Texas by the United States of $10,000,000 in stock, etc.

1851.

Feb. 18. Calling on civil and military officers, and all citizens in the vicinity of Boston, to resist lawless violence and

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help restore to the authorities a fugitive slave, unlawfully taken from the custody of officers on Feb. 15th inst.

Apr. 25. Warning the public against violation of our laws and national obligations, on the occasion of an armed invasion into Cuba by foreigners and others from the United States (the Lopez expedition).

Oct. 22. Warning the public against participation in a military expedition into Mexico, a country at peace with the United States.

1853.

Feb. 25. Convening an extraordinary session of the Senate.

26. To make public a commercial convention between the United States and the Netherlands.

EXECUTIVE ORDERS

1852.

May 17. To the Secretary of War, announcing that the President has authorized Hugh Maxwell, collector at New York, to arrest any unlawful expedition that may attempt to fit out in his district, and calling for issuance of proper instructions to military officers.

June 29. To the heads of the several Departments, announcing the death of Henry Clay, and suggesting that the Departments be closed for the day.

Sept. 13. To Gen. Joseph G. Totten, regarding water supply for Washington and Georgetown.

Oct. 25. To the acting Secretary of State, and heads of other Departments, announcing the death of Daniel Webster, Secretary of State, eulogizing him and suggesting suitable action.

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MR. FILLMORE'S VIEWS

RELATING TO SLAVERY

THE SUPPRESSED PORTION OF THE THIRD
ANNUAL MESSAGE TO CONGRESS
DECEMBER 6, 1852

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MR. FILLMORE'S

VIEWS RELATING TO SLAVERY

The suppressed portion of President Fillmore's annual message to Congress, on the 6th of December, 1852, relating to slavery, is as follows[1]:

This is the last time that I ever expect to address my fellow-citizens generally, from any official position. There is one subject vitally affecting the perpetuity of our institutions, and the prosperity of our common country, upon which, in taking my final leave of public life, I feel it my duty briefly to express my sentiments. I know that the subject is a delicate one. I know that the difference of sentiment—not to say conflict of opinion—which pervades the Republic, forbids me to hope for anything like a unanimous concurrence in my views; and prudence might therefore admonish me not to express them. But I feel that I owe it to myself —that I owe it to the country which gave me birth, and which has honored me with its highest trusts—frankly and fearlessly to take my share of the responsibility which naturally attaches to my position by placing on record, now and forever, my views on the subject of slavery.

1. Here reprinted from a pamphlet without title-page, or any indication of place or date except "Thomas, typographer," on the cover, which fixes it as a Buffalo imprint. The cover-title is as follows: "The suppressed portion of President Fillmore's Annual Message to Congress, on the 6th December, 1852, relating to slavery." Although suppressed, it evidently was not entirely withheld from the public. Newspaper allusions to it are to be found, though the present editor has not seen it elsewhere in print in its entirety, nor do the authors of histories embracing the time of Mr. Fillmore's Presidency appear to have knowledge of it.

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In doing so, however, I shall feel compelled, from the brief space which can be devoted to any one subject, to confine myself to its *political* aspect, leaving the moral and religious views of this great question to the casuist and the divine. And even as a political question, affecting the social organization, my views must necessarily be limited to the inquiry, whether its existence among us is a blessing or an evil, and, if an evil, whether there are any means by which the country may hope to be relieved from it. Were the question now for the first time presented, whether slavery should be introduced into the Republic, there would, beyond all doubt, be an overwhelming majority against it. But it is here. It was planted by the mother country; maintained by her laws, and protected by her arms. It had a feeble growth in the Northern colonies, and was easily eradicated after the Revolution; but its roots struck deep in Southern soil, and its luxuriant strength defied the storm of freedom which swept over the land in 1776. It is now manifest that, if it shall be prostrated by any external force, it will bury beneath its sturdy trunk and falling branches the millions who have taken shelter beneath its spreading shade. Let us, then, look at it as it is—see what has been its operation upon our social organization heretofore, and thence infer what are to be its effects hereafter.

In 1620 the first slaves were brought to the country which now constitutes the United States. From what we know of the degradation and suffering of the native races of Africa, it is hardly to be doubted that their condition was greatly improved by the transfer. Here was the commencement of African slavery in this country. For more than two hundred and thirty years it has formed a part of our social system. It has "grown with our growth and strengthened with our strength," and it has left among us as its fruits, according to the computation of the census of 1850, 3,203,867 slaves, and 428,051 free people of color—being a fraction more than seven slaves to one free person of color throughout the whole Union. Our entire population, free and slave, was by the same census 20,191,088, being a fraction more

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than six free persons, including black and white, to every slave. These are the elements which now constitute our nation; and in looking into futurity to see what such elements are likely to produce, the nation must be regarded in its corporate capacity and be considered immortal. It may change its form of government, as it has done before; but this alone will not materially change its constituent elements. It may enlarge its dominion by the addition of slave territory, but such an addition is likely to bring with it more slaves in proportion to the free population than now exist in the slaveholding States, and would consequently afford no relief for this class of our population. The slave population may be scattered over a broader surface, perhaps, or it may occupy other districts than those which now confine it; but by a law of its condition, of which the operation is now apparent, it manifestly must continue to retire from its old habitations as it extends toward new settlements. Whatever changes may take place, slave territory is more likely to become free by the extinction of slavery where it now exists, than to increase by the establishment of it where it does not.

Assuming, then, that slavery hereafter is to be restricted to a territory not greater than that which it now occupies, and that both the free and slave population will increase as fast for the next fifty years as they have done for the past fifty, the whole population of the slave States in 1900, less than fifty years hence, will amount to 35,636,045; and at the end of the next succeeding half century, 1950, it will amount to 131,425,376. Causes not now in operation, or the effect of which cannot now be calculated, may change this anticipated result; but if it should be realized, then it is necessary to observe that the whole area of the slave States, exclusive of Texas, is estimated at 617,131 square miles, and that of Texas at 237,321 square miles, making an aggregate of slave territory of 854,452 square miles. If the population of only fifty years hence should be settled upon this aggregate territory, it would average a fraction less than forty-two to each square mile; and in 1956 it would amount

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to a fraction less than 154 to each square mile; whereas the whole population of Virginia, black and white, averages but a fraction more than twenty-three to each square mile; and that of Great Britain, including all its large cities and immense manufacturing establishments, averages only two hundred and thirty-four to the square mile. By the contemplation of such a result, it becomes necessary to inquire what is to become of the population in the slave States, for it is clear that the two races cannot long continue to subsist together. One hundred years will not elapse before a contest must commence between them for the means of subsistence, which will assuredly end in the destruction of the weaker party. It is only necessary to look at the pauperism of Great Britain to read our future history. With resources beyond those of any other nation, she sends forth annually hundreds of thousands of emigrants to seek food and raiment in distant climes.

But this view of the case presupposes a continued state of peace, or at least as much of that blessing in proportion as we have enjoyed for the last fifty years. But a civil war, or a servile insurrection, or even a foreign war, may suddenly change the whole aspect, and hasten a crisis which time alone would seem to render inevitable. What effect such wars might have upon the institution of slavery no human sagacity can foresee.

But there is another consideration connected with this subject which no friend of this Union can look upon without anxiety and dread. I allude to the hostility to slavery which is manifested by some portion of the population of the free States, and its threatened aggressions upon the slave States, and the apprehension and consequent efforts on their part to defend themselves against it. The number in the free States who could be induced to disregard the guarantees of the Constitution, and attempt the abolition of slavery in other States, is comparatively small. Yet it is not to be disguised that their constant agitation has increased the prejudice of the North against that institution, and alarmed the South for its safety. This constitutes a disturbing ele-

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ment in the harmonious action of this Government, which naturally increases our anxiety for the future. I speak not of the merits or demerits of the sentiment in which this agitation originates, but look only to its effects upon the body politic; and, for all the purposes of this argument, it may be conceded that the great majority who entertain this sentiment are entirely sincere and honest in their convictions; but this sincerity, so far from lessening, actually increases the danger.

But, independent of this, the natural rivalry between the slave-holding and free States is unavoidable. It commenced with the formation of the Constitution. At that time it was chiefly a question of power. The Representatives in Congress were to be apportioned among the States according to their population, and the electors of President and Vice-President in each were to be equal in number to its Senators and Representatives. The slave-holding States, for the purpose of increasing their representation in Congress and their electors of President and Vice-President, insisted that their slaves were persons, and should be counted as such in apportioning the Representatives among the States; but the free States insisted that they were property, liable to taxation, but not entitled to representation in Congress. The difference was finally compromised, by providing in the Constitution that five slaves should be equal to three free persons, and then that the "Representatives and direct taxes should be apportioned among the several States according to their respective numbers." Thus was this question settled, giving according to the last apportionment, twenty Representatives in Congress, and the same number of Presidential electors to the slave States, based upon their slave population. If the principle contended for by the free States at that time had been adopted, the slave-holding States would have been denied the whole representation now derived from the enumeration of their slaves. If the principle *now* announced by many in the free States, that slaves are to be regarded as *persons*, had been adopted, the slave-holding States would at the present time be entitled to a representation of thirty-

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one instead of twenty members, based upon their slave population. Notwithstanding the mode of apportionment finally determined upon, the free States have always had a majority of Representatives in Congress, and a corresponding number of Presidential electors; and for sixty years past, until the admission of California, the number of free and slave States has been kept equal by admitting alternately into the Union a free and a slave State, and as each State was represented by two Senators only, the consequence has been that the Senate has been equally divided between the free and slave-holding States.

The contest for supremacy between the North and the South growing out of this question, which was temporarily settled by the adoption of the Constitution, was renewed on the admission of Missouri as a State, and was again compromised by admitting her as a slave State, and excluding slavery from certain other parts of our territory. Again the agitation of it was permitted to slumber for some fifteen years, when, without any apparent contest for political power which had marked its previous recurrence, it displayed itself at the North by a few fanatics in the open declaration of war against slavery, however guaranteed, accompanied with demonstrations of a purpose to abolish it in the States and Territories where it existed. The South took the alarm, and sought to strengthen itself by the acquisition of additional slave territory. After a long and fearful struggle it succeeded, by annexing Texas; but even this apparent success brought with it a war that resulted in the acquisition of new territory which will doubtless add more than enough free States to the Union to counterbalance all the slave States that will ever be formed from Texas. These last acquisitions stirred up a sectional controversy between the North and the South that shook this Republic to its centre. But again the controversy has been fortunately compromised, by admitting California as a free State and giving to the South the full benefit of that constitutional provision for the rendition of fugitive slaves, and by agreeing to admit into the Union any other new States formed from the re-

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cently acquired territory, with or without slavery, as the people of each State shall determine on its application for admission.

We perceive, therefore, that this element in our polity has been a constant source of irritation and controversy; that every acquisition of new territory, if not stimulated by a desire to increase the power of one section of the Union as against the other, is viewed with increasing jealousy by one side or the other. It is manifest from all our past history that this agitation is to be renewed with increased violence as often as any new State shall apply for admission whose Constitution tolerates slavery.

When the several colonies declared themselves free and independent States, and each adopted its own Constitution, it is clear that it had the sole control over the question of slavery within its limits. The Union of the States was formed by the establishment of a General Government, to which certain powers were given; but the Federal Constitution expressly declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, were reserved to the States respectively, or to the people." This power over the institution of slavery in the several States not having been conferred by the Constitution upon the United States, nor prohibited to the States, was consequently reserved to them, and they alone can provide for its abolition whenever they may deem it expedient and proper. Congress has no power over the subject of abolition. Yet it is not to be disguised that the avowed abolitionists in the free States, regardless of the sacred obligations of the Constitution, are prepared to do everything in their power to abolish slavery in the several States where it exists. Yet so signally have they failed to produce any result favorable to their declared object, that all their efforts, thus far, have only tended to rivet the chains of slavery, and to deprive the bondman of many indulgences which, before the era of this mischievous effort, had been cheerfully accorded to him by his master.

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The misdirected and pernicious zeal of this unfortunate sect has tempted the slave to abuse his privileges, and compelled his master, for his own security, to abridge them. To convince us of this, it is only necessary to recur to the fact that prior to the commencement of this political agitation in 1835 for the abolition of slavery, the laws of most of the States opposed no obstacle to the instruction of slaves in reading and writing, nor forbade their manumission at pleasure. But now, to prevent servile insurrections, the danger of which is greatly enhanced by such a degree of education as might render the slave population accessible to the incendiary publications of abolitionists, the instruction of the slave in reading and writing is, in several of the States, laid under a severe interdict. And as a free black population has been found to contribute to the same apprehension of disturbance, the power of manumission has been circumscribed by conditions which greatly restrict its exercise. The several returns of the census which have been made during the last half century, accordingly show that the free blacks within the last ten years have increased at a rate less than eleven per cent., while for the ten years from 1820 to 1830 they increased at the rate of more than thirty-six per cent.; and for the ten years from 1830 to 1840—during which time this abolition movement had but partially produced its baneful effects—it may also be seen that the increase was a fraction over twenty per cent.; yet, during all this time from 1800 to 1850, slavery went on with an almost uniform increase, averaging more than twenty-nine per cent. for every ten years. This is a most truthful but sad exhibition, as shown by figures and facts, of the injurious effects of political abolition upon the slave himself, independently of all the injury which it has done the country in stirring up strife between brethren of the same great family, and endangering the perpetuity of the Union itself.

These facts warrant the conclusion that slavery must, in less than half the time that has elapsed since its introduction into this country, overwhelm the slave States with its numbers, unless something be done to check its increase;

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and that it will give birth to a conflict of races with all the lamentable consequences which must characterize such a strife. This terrible event may be precipitated, as it was in St. Domingo, by the well-meant but indiscreet and fatal policy of foreign interference to abolish slavery. It must be apparent that the nation is fast approaching that horrid gulf the danger of which is not to be lessened—but, on the contrary, rendered more destructive—by refusing to give it a timely and dispassionate consideration. The terrific scenes of St. Domingo are sooner or later to be reënacted here, unless something be done to avert it. When that war commences it will doubtless end, not as in St. Domingo, in the total destruction of the white, but in the utter extermination of the black race. I need not say that, before this is accomplished, the nation must wade through seas of blood, and the helpless and the innocent fall victims to the most cruel of wars—a civil war—a war of races, embittered with the ferocity and malignity peculiar to a servile war. These are the impending dangers of slavery which invoke the gravest deliberation of the nation, and invite the wise and the good of every section to inquire and resolve what is best to be done to provide against evils not the less deserving of our attention because they are yet remote.

I am satisfied that all unsolicited interference with slavery from other States or other countries will but aggravate the evil. It is a law of human nature, as universal as the instincts and pride of man, that no family, municipality, State, or nation, ever did or ever will tolerate the unasked intervention of a foreign power in reference to its own domestic policy. To attempt it, is ever regarded as an indignity and an insult, and the officious intermeddler is invariably repelled with resentment. Whatever, therefore, is done to rid the country of this evil must be done chiefly by the slave States themselves. They must first appreciate the danger, indicate the remedy, and lead the way; and then the free States and the General Government can aid them. But all efforts from the free States to force abolition upon the slave States, or to dictate the mode by which, or the

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time when, it is to be accomplished, are worse than useless, as they tend to endanger everything that secures "life, liberty, and the pursuit of happiness" to the white man, or that can possibly benefit the slave himself.

There is another question connected with this which deserves consideration, and that is, the condition and prospects of the free people of color. It is not to be disguised that their condition and their prospects are alike deplorable. As they become dangerous in the slave States they will be expelled by rigorous enactments; for self-preservation knows no law but necessity. Will the free States consent to be burdened with such a population that must necessarily fill their poor-houses and penitentiaries with the unfortunate, the helpless, and the vicious? It cannot be expected; and one State has already excluded them by a constitutional provision. But even if they were admitted, they must soon come into competition for subsistence with the white man, in a climate more congenial to the latter, and they cannot succeed. The very fact that their increase, including those manumitted, and fugitives, for the last ten years, has been less than eleven per cent., while that of the slave population which has no addition by immigration or otherwise except the natural increase, has been more than twenty-eight per cent., would seem to be conclusive proof that the free black in this country is not, upon the whole, as well off as the slave. Manumission, therefore, without colonization, cannot benefit the black, while it would create a worthless population that would ruin the South, and could hardly be endured at the North.

Thus having stated the evil, I am bound to offer my views of the remedy. This I do with unfeigned diffidence, and with a most sincere declaration that I will cheerfully concur in any other constitutional mode of relief which Congress may see fit to adopt. But after the most anxious and mature consideration of this perplexing question in all its bearings, I confess that I see no remedy but by colonizing the free blacks, either in Africa or the West Indies, or both. This, it appears to me, is all that Congress can do. It can-

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not abolish slavery, it can only invite emancipation by removing the free black from his dangerous proximity to the slave. But this would, beyond all question, offer a strong inducement to manumission, and would enable many to emancipate their slaves who are desirous of doing so, but are restrained by the laws of their States, which forbid emancipation unless the slave be removed beyond its boundaries. Such persons would thus be enabled to gratify their benevolent wishes, at the same time that it would be left entirely to the slave-holding States themselves to determine when manumission should be permitted, or slavery abolished.

This is where the Constitution has left this perplexing subject, and I am convinced that it is where the peace of the country requires that it should remain. But the bare removal of the free blacks would be a blessing to them, and would relieve the slave and free States from a wretched population, that must ever be kept in a state of degradation by the prejudice of color and race, whether they reside in the slave or free States. There can be no well-grounded hope for the improvement of either their moral or social condition, until they are removed from a humiliating sense of inferiority in the presence of a superior race, and are enabled to feel the wholesome stimulus of a social equality.

Assuming, then, that colonization is the true remedy, is it practicable? It appears by the census of 1850 that there were 428,051 free persons of color in the United States; and the annual increase of the slave population for the last ten years has averaged 71,673. It is therefore manifest, that if emigration could take place at the rate of 100,000 per annum, that would soon remove the present free colored population, and not only prevent the increase of the slave population, but constantly diminish it, and at last either wipe it out entirely, or reduce it to such an inconsiderable number that there would be no danger or inconvenience in its emancipation, when its place should be supplied by free labor, as it doubtless would be eventually by emigration from Asia, which has already commenced in California. But to accomplish this, it must be a national work; and I

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know of no more useful purpose to which a portion of the public revenues could be devoted than this.

According to the price now paid by the Colonization Society for transporting emigrants to Liberia, $3,000,000 will remove 100,000, and $2,000,000 will subsist them for six months after their arrival at Liberia; and of course the expense would be much less for those which should emigrate to the West Indies. And should gold be discovered in the mountains of Africa, as it has been in California and Australia, of which there is every indication from the amount gathered in the streams, it would greatly facilitate the process of colonization.

It is true that this must be the work of many years, not to say centuries, for it can only progress as the slave-holding States, who are chiefly interested, shall find it for their advantage to encourage emancipation. It cannot be expected that a social evil like this, which has been accumulating for more than two hundred years, and is now intertwined with all the industrial pursuits of one-half of the States of the Union, can be eradicated in a day. Its increase has been insensible, and its decrease should be so gradual as to create no shock. But it cannot be commenced too soon for the good of the country; for the rational philanthropist will see in its gradual accomplishment the only sure mode of relieving the country from this increasing evil without violence and bloodshed, and instead of joining in the fanaticism of abolition, he will patiently await its fulfillment; and the devout Christian, who has longed for the conversion of Africa, and mourned over its heathen idolatry and degradation, will see in these Christian slaves, emancipated and returned to their own country, the true missionaries to Africa, and recognize in this whole transaction the mysterious wisdom of an All-wise Being, who by these means will bring benighted Africa to a knowledge of the Gospel.

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MR. FILLMORE'S

OFFICIAL LETTERS

AS VICE-PRESIDENT AND PRESIDENT
TO HEADS OF DEPARTMENTS,
YEARS 1849 TO 1853

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ARCHIVES EXAMINED

The following letters were written by Mr. Fillmore while he was Vice-President and President, chiefly to the heads of Departments. The sources from which they have been copied for this publication are indicated in small type, following each letter. In the great majority of cases, the originals are wholly in Mr. Fillmore's handwriting.

The editor's quest for the official correspondence of Mr. Fillmore, as Vice-President and President, was prosecuted at the various Departments at Washington which were in existence during Mr. Fillmore's terms of office; at the Library of Congress, and in a few other depositories, as duly noted. The War Department, following its usual course, refused access to its archives. Nothing was found in the Patent Office, nor in the files of the Postoffice Department. President Fillmore's letters to the Secretary of the Treasury for the most part relate to appointments, are short and usually of a formal routine character. A brief syllabus of them is appended, which it is believed will sufficiently serve the purpose of the present compilation.

Numerous other letters written by Mr. Fillmore, while Vice-President or President, but which are not strictly official, will be found in a succeeding group of his writings in this collection.

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MR. FILLMORE'S LETTERS

AS VICE-PRESIDENT AND PRESIDENT TO HEADS OF DEPARTMENTS, 1849 TO 1853

FROM THE LAKES TO THE OCEAN.

CAPITOL, Dec. 27, 1849.

DEAR SIR: I have the honor to enclose you a letter from Mr. John Hollister, who is a highly respectable merchant and ship-owner of Buffalo, wanting a permit from the British Govt. to pass certain vessels through the St. Lawrence to the Ocean. Will you do me the favor to inform me how such a permit can be obtained.

Very respectfully,

MILLARD FILLMORE.

HON. J. M. CLAYTON,
Secy. State.

Department of State.
Endorsed: "Recd 28 Dec. '49, Ansd 29th Dec. '49." Enclosure mentioned is not found.

RELATIONS WITH THE ARGENTINE.

Jany. 10, 1850.

TO THE SECY. OF STATE.

MY DEAR SIR: I have read and herewith return Mr. Harris' despatch of the 24th of Oct. (No. 55).

Would it not be well to bring this matter to the notice of the Argentine Minister here, and intimate to him very decidedly that we could not longer suffer our appeals to his

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Government for justice to be treated with silent contempt or protracted evasion? Truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

CASE OF A MIDSHIPMAN.

WASHINGTON, Jany. 11, 1850.

SIR: I have the honor to enclose you two communications which I have just received from Com. [William D.] Salter in reference to the reinstatement of Charles S. Bell as a midshipman in the Navy.

His application places me in a situation of some delicacy, as I wish to oblige him if I can, but have doubts about the propriety of saying a word in a case like the present. I by no means wish to interfere with the discipline of the Navy, even in the most remote degree. But if it can be done, without producing mischief to the service, I should be much gratified if the order dismissing Mr. Bell could be so far modified as to operate only as a postponement of his time for examination, or in any other way short of his expulsion.

I have no acquaintance with the young gentleman, and have only been introduced to his father. But I do not now intercede in favor of the son at the instance of either of them.

I have the honor to be, Sir,

Yrs. respectfully, MILLARD FILLMORE.

Navy Department.

A statement of the case and Commodore Salter's letter are enclosed, but the Secretary of the Navy declined to reinstate Mr. Bell. Mr. Fillmore's letter is endorsed: "Answer, I decline to reinstate him. Also send report of the Board in reference to his case. W. B. P."

CASE OF RAMON MONTALOO.

WASHINGTON, Apl. 15, 1850.

HON. JNO. M. CLAYTON,

Secy. of State.

DR. SIR: I have the honor to enclose you a letter from Wynkoop Packard, Esq., a respectable lawyer of the City

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of New York. If anything can be done for the relief of his client I shall be gratified if you will take the proper steps to have it accomplished. Truly yours,

MILLARD FILLMORE.

Department of State.
Endorsed: "Recd 17 April, Answered 19th April."
Wynkoop Packard's client referred to in above was Ramon Montaloo, a Cuban by birth but a naturalized citizen of the United States, who was seized by order of the Captain General of Cuba when on the steamship Georgia about leaving Havana. The enclosure giving these and other details is with the letter of Fillmore. Packard's letter is of April 13th.

ANNOUNCING PRESIDENT TAYLOR'S DEATH.

On July 9th Mr. Fillmore received formal notification, through the Cabinet, of President Taylor's death. He replied as follows:

WASHINGTON, July 9, 1850.

GENTLEMEN: I have received your note conveying the melancholy and painful intelligence of the decease of Zachary Taylor, late President of the United States. I have no language to express the emotions of my heart. The shock is so sudden and unexpected that I am overwhelmed with grief.

I shall avail myself of the earliest moment to communicate the sad intelligence to Congress, and shall appoint a time and place for taking the oath of office prescribed to the President of the United States. You are requested to be present and witness the ceremony.

Respectfully yours, MILLARD FILLMORE.

[*Addressed to the Cabinet.*]

WASHINGTON, July 10, 1850.

FELLOW-CITIZENS OF THE SENATE AND HOUSE OF REPRESENTATIVES:

I have to perform the melancholy duty of announcing to you, that it has pleased Almighty God to remove from this life Zachary Taylor, late President of the United States. He deceased last evening, at the hour of half past ten

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o'clock, in the midst of his family and surrounded by affectionate friends, calmly and in the full possession of all his faculties. Among his last words were these, which he uttered with emphatic distinctness: "I have always done my duty. I am ready to die. My only regret is for the friends I leave behind me."

Having announced to you, fellow-citizens, this most afflicting bereavement, and assuring you that it has penetrated no heart with deeper grief than mine, it remains for me to say, that I propose this day at twelve o'clock, in the Hall of the House of Representatives, in the presence of both Houses of Congress, to take the oath prescribed by the Constitution, to enable me to enter on the execution of the office which this event has devolved on me.

MILLARD FILLMORE.

The foregoing communication to the Senate, and that which follows, addressed to the members of both Houses, though in the nature of Messages, do not appear in the published collection of Mr. Fillmore's Messages to Congress. Still another communication from him, of the same date, addressed to both Houses, regarding the funeral of Zachary Taylor, is given among Mr. Fillmore's published Messages, and will be found noted in the list printed in this volume.

OFFICIAL MOURNING ORDERED.

In consequence of the death of the President of the United States, I direct that the several Executive Departments be closed until after the funeral of the illustrious deceased, and that they, as well as the Executive Mansion, be placed in mourning; and that the several officers of the Government wear the usual badge of mourning for the term of six months.

MILLARD FILLMORE.

WASHINGTON, July 10, 1850.

RETIRES FROM THE CHAIR OF THE SENATE.

WASHINGTON, July 10, 1850.

TO THE SENATE OF THE UNITED STATES:

In consequence of the lamented death of Zachary Taylor, late President of the United States, I shall no longer occupy

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the chair of the Senate; and I have thought that a formal communication to that effect, through your secretary, might enable you the more promptly to proceed to the choice of a presiding officer.

MILLARD FILLMORE.

COMMERCIAL TREATY WITH PERU.

MILLARD FILLMORE, President of the United States of America,

To all to whom these presents shall come, Greeting:

Know ye, that, for the purpose of confirming between the United States and the Republic of Peru perfect harmony and good correspondence and of removing all grounds of dissatisfaction, I have invested John M. Clayton, Secretary of State, with full power and authority and also with general and special command, for and in the name of the United States, to meet and confer with Senor Don Jose Manuel Tirado, Envoy Extraordinary and Minister Plenipotentiary of that Republic to the United States, and with him to agree, treat, consult and negotiate of and concerning general commerce between the two Countries and all matters connected therewith, and to conclude and sign a treaty touching the premises for the final ratification of the President of the United States by and with the advice and consent of the Senate thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand at the City [SEAL] of Washington, the thirtieth day of July, A. D. 1850 and of the Independence of the United States, the seventy-fifth.

MILLARD FILLMORE.

BY THE PRESIDENT,
J. M. CLAYTON,
Secretary of State.

Clayton collection, Library of Congress.

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NAVAL SERVICE ON LAKE ERIE.

WASHINGTON, Augt. 2, 1850.

TO THE SECY. OF THE NAVY,

SIR: Surgeon Wood of the United States steamer Michigan on Lake Erie, called on me when I was too much occupied to attend to his request and complained of an order which had been made assigning the staterooms of the vessel in a different manner from what had been usual. I asked him to leave a statement of facts and I would refer it to you for investigation and if wrong for correction. I now hand his statement annexed.

I have the honor to be

Your obt. servt.,

MILLARD FILLMORE.

Navy Department.

Endorsement appears to show that William M. Wood was a supernumerary officer on this vessel and for this reason had no right to expect any of the regularly attached officers to surrender his room to him. Filed with this letter and evidently in answer to the Secretary's reply is: "The President will thank the Secretary of the Navy for a copy of the Navy *Register* and of the rules and regulations for the Navy and any other compilation of laws, etc., on the subject. Wed. Augt. 7."

NAVY YARD SUPPLIES.

[WASHINGTON] Sept. 11, 1850.

THE SECY. OF THE NAVY.

DR. SIR: I presume the enclosed request of Jos. Smith to supply the Navy Yard with water is correct, but I have been unable to find the law that requires my approval; and if it be necessary it appears to me that I ought to know some facts on which to base it; as for instance, How is the Yard now supplied? What will the proposed improvement cost? Will it interfere with individual rights, either by depriving them of the water or carrying the pipes through their

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lands? I therefore return the papers for further information. Your obt. servt.,

MILLARD FILLMORE.

Navy Department.

Endorsed: "The Chf. of Bureau will give a reference to the Act of Congress requiring the Pres'ts approbation, and also say how the Navy Yard is now supplied with water. W. A. G[RAHAM]."

The above letter is in reply to Graham's of September 10th enclosing request referred to. Other letters on file with the above are two from Smith requesting the right of running pipes from a spring on a public reservation to the Navy Yard (September 9th) and stating reasons why approval of the President is necessary, etc., (September 13th). Smith was Chief of the Bureau of Yards and Docks and his letters are to the Secretary of the Navy, Graham, the last being in reply to the request endorsed on the letter from the President to the Secretary.

APPOINTMENT OF DEPUTY APPRAISERS.

WASHINGTON, October 7, 1850.

ISAAC DOUGHTY, *Esq.*

DEAR SIR: I have to acknowledge the receipt of yours of the 2d inst., in reference to your being appointed one of the Deputy Appraisers, in New York. In reply to which, I would state, that they are not appointed by me but by the Secretary of the Treasury; and as I have made it an invariable rule not to interfere with the appointments of the Heads of Departments I can only regret that it is not in my power to further the success of your application, otherwise it would give me much pleasure to serve you.

Very respectfully & truly yours,

MILLARD FILLMORE.

Corwin collection, Library of Congress.

CONSTITUTIONALITY OF THE FUGITIVE SLAVE LAW.

WASHINGTON, Oct. 23, 1850.

[To DANIEL WEBSTER]

MY DEAR SIR: Your letter of the 19th came to hand yesterday, & I am much gratified to hear of your improved health.

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I have received a copy of Judge Woodbury's charge on the Fugitive Slave Law, and the Report of Judge Grier's opinion in a case before him, all manfully sustaining the constitutionality of the law, and manifesting a determined resolution to carry it out. I have also just received a joint letter from Judge Grier and Judge Keane, stating that a case has occurred before a commission in Pennsylvania where the execution of a warrant under that act was "forcibly and successfully resisted; the posse summoned to aid the officer having refused to act," and "inquiring whether upon the recurrence of an obstruction to his Process he will be entitled to call for the aid of such troops of the United States as may be accessible."

This you perceive presents a very grave and delicate question. I have not yet had time to look into it and regret much that so many of my Cabinet are absent, and especially yourself and the attorney general. These judges ask for a general order authorizing the employment of the troops in such an emergency; and I am disposed to exert whatever power I possess under the Constitution and laws, in enforcing this observance. I have sworn to support the Constitution. I know no higher law that conflicts with it; and that Constitution says, "the President shall take care that the laws be faithfully executed." I mean at every sacrifice and at every hazard to perform my duty. The Union must and shall be preserved, and this can only be done, by a faithful and impartial administration of the laws. I can not doubt that in these sentiments you are with me. And if you have occasion to speak I hope you will give no encouragement, even by implication, to any resistance to the law. Nullification can not and will not be tolerated.

It seems to me, with all due deference to your superior wisdom, that the true grounds for our friends to take is this: that the law, hav'g been passed, must be executed. That so far as it provides for the surrender of fugitives from labor it is according to the requirements of the Constitution and should be sustained against all attempts at repeal, but if there be any provision in it endangering the liberty of those

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who are free, it should be so modified as to secure the free blacks from such an abuse of the object of the law, and that done we at the North have no just cause of complaint.

We must abide by the Constitution. If overthrown, we can never hope for a better. God knows that I detest Slavery, but it is an existing evil, for which we are not responsible, and we must endure it, and give it such protection as is guaranteed by the Constitution, till we can get rid of it without destroying the last hope of free government in the world. But pardon me for saying so much. I thought possibly you might desire to know my sentiments, and I can assure you, I am very anxious to know yours, as to the answer to be given to the Judge's letter. I will, finally, send a copy of it.

I will add something in another letter.

With the highest consideration & Respect, I am in great haste

Truly yours,

MILLARD FILLMORE.

"The Letters of Daniel Webster," edited by C. H. Van Tyne, pp. 437, 438.

DETERMINED TO ENFORCE THE FUGITIVE SLAVE LAW.

WASHINGTON, Oct. 28, 1850.

[To DANIEL WEBSTER]

MY DEAR SIR: I have yours of the 24th. from Franklin, N. H., and am greatly gratified to hear of your improved health; and hope soon to learn that your cough has entirely left you. I infer that you have not received my letters of the 23d inst. addressed to you at Boston.

We have had two Cabinet meetings, the last this morning, on the authority and duty of the President to use the Military force in aid of the civil officer to execute the fugitive slave law, and have concluded, when necessary, to do it. We were somewhat embarrassed by the legislation of Congress on the subject, in 1807, and subsequent Acts, which

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would seem to imply that this was a power to be conferred by Congress, but after a careful examination of the subject, I came to the conclusion that it was an inherent Executive power enforced by the Constitution, when it made the President commander-in-chief of the Army and Navy, and required him to take care that the laws be faithfully executed. In this, however, the whole Cabinet were not agreed. Some think that the Marshall might summon the Army as citizens and part of the *Comitatus*, but all agree that the aid should be given, and the only question was, when? We concluded to give it to the Marshall whereas, he was unable to sustain the laws by the civil authority, and to the special deputies in the same cases when a judge of the District or Justice of the Sup. Court, should certify that in his opinion it was necessary. This direction is given to the commanding officer of the Marines at Philadelphia.

Congress having authorized the Marshall to provide temporary jails, where the Sheriff refuses to admit the U. S. prisoners, we did not think it advisable to grant the use of the Receiving ship at Boston for that purpose. But I mean at all hazards to do my part toward executing this law. I admit no right of nullification North or South. My object, however, has been to avoid the use of military force as far as possible, not doubting that there is yet patriotism enough left in every State North of Mason's and Dixon's line to maintain the Supremacy of the laws; and being particularly anxious that no State should be disgraced, by being compelled to resort to the army to support the laws of the Union, if it could be avoided. I have therefore commenced mildly —authorizing this force only in the last resort, but if necessary, I shall not hesitate to give greater power, and finally to bring the whole force of the government to sustain the law. But the mail is closing and I can not say more.

I have also yours of the 25th inst. and am gratified to hear that you are preparing an answer to the Dist. Atty. of Missi[ssippi] and to the Austrian minister.

I can sympathize with you in the melancholy feelings which are inspired by looking upon the grave of your ancestors and kindred but I hope soon to welcome you back to

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the busy scenes of active life where your absence is so much deplored and your counsels so much wanted.

I am truly your friend

(Have not time to read over) MILLARD FILLMORE.

"The Letters of Daniel Webster," edited by C. H. Van Tyne, pp. 438, 439.

AS TO "FUGITIVES FROM LABOR."

WASHINGTON, Jany. 10, 1851.

TO THE SECY OF STATE,

MY DEAR SIR: Accept my thanks for the 2 R. S. of N. Y. which I herewith return. It appears to me that the act is not broad enough to prevent the issuing of a *Habeas Corpus,* to bring up a fugitive from labor, when the process under which he is detained is issued by a commission and not by a judge—p. 659, S. 36-(22). But if the process be regular, it prevents his discharge and he must be remanded —p. 663, S. 56 (41).

As to the power of the Jailor to keep such a fugitive in the county jail there may be some doubt—p. 872, S. 1. He is only authorized to receive persons duly committed "for *an offence against the United States.*" Can an absconding of a slave from his master, be deemed an *offence* against the U. S.? It seems to me very doubtful. Indeed my impressions are against it. But would it not be well to take the opinion of the Atty. Genl, that we might be prepared to give prompt advice on the subject?

Truly yours,

MILLARD FILLMORE.

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RELATIONS TOWARDS AUSTRIA.

Jan'y 16 [1851].

TO THE SECRETARY OF THE STATE,

MY DEAR SIR: I have read & herewith return, the copies of Mr. Clayton's letter, and yours to him and the Austrian Instructions of the 5th. of Nov. 1849, to Mr. Hülsemann.

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I am a little surprised at the change made in the printed copy of Mr. Mann's instructions. But as you suspect, they must have had access to the original.

I noticed, you changed the original Draft of your letter and denied the use of the phrase *"iron rule,"* and supposed that you had made a mistake at first. But if I recollect right they predicated their complaint, on the correspondence, as published. If so they cannot go behind the printed copy; and we at last [*? least*] are free from any imputation of mutilation.

Truly yours,

MILLARD FILLMORE.

"The Letters of Daniel Webster," edited by C. H. Van Tyne, pp. 456, 457.

A NOTE OF THANKS.

The President herewith returns Mr. Dennison's letter with many thanks for its perusal.

January 18, [1851]

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A JUDICIAL QUESTION.

MR. WEBSTER: I have read and herewith return the papers. It is an unpropitious time to urge this claim upon Congress even if it be just, but I do not know enough about it to give any opinion. I only recollect it is a judicial question before the court.

I think to present it even, could do no good and would do harm. But I am willing to examine the case, and if our treaty stipulations require it, I am for complying with them at any and every hazzard *(sic)*. But I must confess my prejudices are against the validity of the claim, but they are based upon no certain knowledge.

Truly Yours,

MILLARD FILLMORE.

Jan'y 25, [1851]

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ON THE SUBJECT OF THE AMISTAD.

The Secretary of State submits for the President's consideration the enclosed note from the Spanish Minister of the 8th instant, and a former one of the 14th Augt last, referred to, on the subject of the Amistad.

WASHINGTON, DEPT. OF STATE, 25 Jany, 1851.

Webster collection, Library of Congress. Notes referred to not accompanying.

A NOTE OF APPOINTMENT.

The President understanding from Mr. Hunter yesterday that the Secretary of State desired to see him before the meeting of the Cabinet this morning, will be happy to see him now, either at the Secretary's office or Executive Chamber as may best suit the convenience of the Secretary.

Wed. Feby 4. 10 A. M.

Webster collection, Library of Congress.

SUMMONS TO A SENATOR.

TO THE HON. SALMON P. CHASE, *Senator from Ohio,*

SIR: Whereas divers and weighty causes connected with Executive business necessary to be transacted create an extraordinary occasion requiring that the Senate be convened, you are therefore requested, as a member of that body, to attend a meeting thereof, to be holden at the Capitol, in the City of Washington, on the fourth day of March instant.

MILLARD FILLMORE.

WASHINGTON, March 3d, 1851.

Chase collection, Library of Congress.

LETTER OF LADY FRANKLIN.

The President has the honor herewith to return the despatches from Mr. Lawrence together with Lady Frank-

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lin's letter, and to suggest in regard to the latter that it might be well to have a joint consultation with the Secretary of the Navy, before answering his letter.

March 8. [1851]

[To Daniel Webster]

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Lady Jane Franklin wrote from London, April 4, 1849, to President Taylor, setting forth the facts relating to the Arctic search expedition commanded by her husband, Sir John Franklin, and the various relief measures which had been undertaken. She called the attention of the President to the reward of £20,000, offered by the British Board of Admiralty, to any ship or exploring party "which should render efficient assistance to the missing ships, or their crews." Sir John Franklin had sailed in May, 1845, in quest of the Northwest Passage. His ships were victualled for only three years; no word had come from him, and there was reason enough for the solicitude, not only of Lady Franklin and her daughter, but of all humane nations. Lady Franklin's object in writing to the President was to beg that American whalers might be informed of the offered prize, and share in the search for the lost expedition. The Hon. John M. Clayton, Secretary of State, assured her ladyship that the American Government would grant her wish in the matter. There was subsequent correspondence on the subject, as referred to in President Fillmore's note, above.

HÜLSEMANN CORRESPONDENCE.

The President returns to Mr. Webster, the letter to Mr. Hülsemann and though he has not the vanity to think it improved by his suggestion, he certainly thinks it very well.

March 14 [1851]

Webster collection, Library of Congress.

THE TEHUANTEPEC ROUTE.

The President would be happy to see the Secretary of State at his earliest convenience in reference to the letter of the Mexican Chargé on the Tehuantepec route; and desires the Secretary to bring with him the protocol for extending the time for the interchange of ratifications of

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the treaty, and the *projet* submitted by the Mexican Secretary of foreign affairs to Mr. Letcher as a Substitute.

April 2 [1851]

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TO THE SECRETARY OF STATE.

WASHINGTON, April 16, 1851.

HON. D. WEBSTER,

MY DEAR SIR: Yours of the 13th came to hand to day, and I congratulate you and the country upon a triumph of law in Boston. She has done nobly. She has wiped out the stain of the former rescue and freed herself from the reproach of *nullification.*

I am gratified to hear that your health is improving and we shall be happy to welcome your return to the counsel board whenever it may suit your convenience.

Movements are evidently making for another piratical descent upon Cuba. Letters and telegraphic despatches speak of armed men in motion in Georgia, but as yet we can not ascertain where they are to rendezvous or whence embark. We have issued circulars to the Collectors and orders to the Army and Naval officers to arrest any movement. But unfortunately we have few vessels now at the south.

South Carolina is far from tranquil as you will see by the enclosed slip. I can not but hope that Senator Butler has been misrepresented.

I have gone through with the voluminous testimony taken on the Charges preferred against the collector and surveyor of the Port of Philadelphia, and am clearly of opinion that the charges are not sustained. I requested Mr. Corwin to send for Mr. Lewis and inform him of the result, but that the proof was such as to require a purgation of the weigher's office, and I suggested to him that I wished he would turn out Loco focos and put good competent Whigs in their places wherever it could be done without prejudice to the public service, and that in making his new appointments he would as far as practicable select from that portion of the

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party which complained of having been overlooked, and he promised to do so.

I learn by telegraph that Pennsylvania has repealed her law which refused the use of her jails for fugitives.

I understand efforts are making to induce the Whigs in the Legislature of N. Y. to issue an address against the compromise measures; and especially against the Fugitive Slave law. Should this be done a counter address will also be issued.

Hearing nothing from Mr. Chandler as to a candidate for the consulate at Belfast I have written him to day calling his attention to the subject.

I see by the paper that Sir Henry is in Charleston. Has his visit any connexion with the movement of the British consul as to the imprisonment of black seamen?

I hope you may make some satisfactory arrangement for the trial of the *rescues*. It is very important that these criminals should be punished. Their crime is contagious, and they must not escape with impunity.

I am truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

MORMONS SEEK ASYLUM IN LAKE MICHIGAN.

EXECUTIVE MANSION, WASHINGTON, April 30, 1851.

HON. J. J. CRITTENDEN,

SIR: I have this moment received from the Commissioner of the Land office the letter of Mr. Bates Dist Atty of Mich in relation to the Mormon settlement on Big Bear [Beaver] island in Lake Michigan with maps and explanations, which are respectfully referred to you for your opinion as Atty General, and having given that, I wish you as acting Secretary of the Interior to issue such instructions to the Marshall and District Atty of Michigan for carrying them out, as may be necessary.

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If necessary the Revenue Cutter or Naval vessel on the upper Lakes, will be put under the control of the Marshall to enable him to execute any process or order.

I am your obedient servant

MILLARD FILLMORE.

Crittenden collection, Library of Congress.

The letter referred to above is as follows:

DETROIT, March 12, 1851.

HON. G. [I] DANIEL WEBSTER.

SIR: All the facts, contained in the within statement, can be got at by legal evidence by a complaint, under the 8th Section of the act of Sept. 1850 against the person who sent the telegraphic despatch referred to and who then prevented the Master from wresting the fugitives. If Atty General will instruct me to make the complaint, before a Commissioner I am satisfied, that I can get hold of the persons who sent the despatch and in the examination of him show precisely what was the real conduct of the Officers. If the Atty Gen. concludes to send me such instructions please ask him to telegraph me *"To proceed,"* I can get all the testimony except Chesters in a week.

Your obedient Servant, GEORGE C. BATES.

June 15, 1850, a memorial was presented to the United States Senate, signed by James J. Strang, George J. Adams and William Marks, "presidents of the Church of the Saints, apostles of the Lord Jesus Christ, and witnesses of His name unto all nations," asking that Congress would pass a law giving the consent of the nation that the Saints "might settle upon and forever occupy all the uninhabited lands of the islands in Lake Michigan," and cease to sell the same to other persons; and asking of the people of the United States, "as they have not allowed their brethren to remain in peace with them, that they will at least suffer them to remain there, separate from them." The memorial set forth that ten thousand men, women and children were illegally expelled from the State of Missouri, plundered of their possessions, exiled from their homes and driven in destitution, hunger and want, in midwinter, to a distant land, passing much of the way in the midst of foes who not only refused them shelter and food, but kept them in continual danger. "If you tell us," it ran, "as some of your predecessors told our martyred prophets while they were yet alive, that you have no power to redress our wrongs, then there is presented to the world the melancholy spectacle of the greatest Republic on earth, a Christian nation, acknowledging itself powerless to judge; unable to protect the right; a nation on whose righteousness half the earth rests the hopes of man, confessing that there is a power above the law, riding down the Constitution, which stalks abroad to plunder and banish the citizens, and none to rebuke; murders the unoffending innocent, and none to say, 'Why do ye so?' Which sanctifies its deeds of violence even in the eyes of religious men, by blackening the fame of their glorious deeds with the name of crimes, which in their lifetime it dared not attempt to prove, even in its own tribunals." This curious memorial, which accused and indicted the Government from which it solicited favors, was referred to the Committee on Public Lands, which reported that the Government did not own the lands the Saints coveted.

George C. Bates was appointed United States District Attorney by President Harrison, in 1841, and was serving in this capacity at Detroit when the above letter was written. To the Detroit *Advertiser and Tribune* of July 12,

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1877, he contributed a long account of the procedure by the Government against the Mormons on Beaver Island and of the trial in Detroit of "King" Strang and others, conducted on behalf of the Government by himself. In this article Mr. Bates represents President Fillmore as being loath to prosecute the Mormons, because they held sufficient voting power in Michigan to make their influence worth seeking. This narrative by Bates is republished in the "Historical Collections," Michigan Pioneer and Historical Society, volume 32. The same volume contains numerous other papers giving various phases of the history of the Mormon occupation of the islands in Lake Michigan. One of these papers, "A Moses of the Mormons," by Henry E. Legler—first published by the Parkman Club of Milwaukee, 1897—states that while visiting a brother in Detroit, President Fillmore learned that among the remote islands of Lake Michigan James J. Strang had established what he termed a kingdom, but what was actually a nest of freebooters engaged in robbing the mails and conterfeiting United States coin. Mr. Fillmore dispatched the steamer Michigan to Beaver Island for the arrest of Strang on a charge of treason. The events that followed constitute a unique romance in the history of the Great Lakes. Strang was acquitted at his trial, and subsequently served in the Michigan Legislature; but was finally murdered and the Mormon colony dispersed, after many episodes of bloodshed.

From allusions in the papers by Mr. Legler, Mr. Bates and others, it would seem probable that President Fillmore engaged in considerable correspondence in the matter, but the letter here printed is the only one found by him bearing upon it. It should be noted that the memorial presented to Congress in June, 1850, was not so presented until after Strang's colony of Mormons had occupied Beaver Island for some three years.

DIPLOMATIC LETTER TO THE EMPEROR OF JAPAN.

Millard Fillmore, President of the United States of America, to His Imperial Majesty, the Emperor of Japan.

GREAT AND GOOD FRIEND:

I send you this letter, by an Envoy of my own appointment, an officer of high rank in his country, who is no missionary of religion. He goes by my command to bear to you my greeting and good wishes, and to promote friendship and commerce between the two countries.

You know that the United States of America now extend from sea to sea, that the great countries of Oregon and California, are parts of the United States, and that from these countries, which are rich in gold and silver and precious stones, our steamers can reach the shores of your happy land in less than twenty days.

Many of our ships will now pass in every year, and some perhaps in every week between California and China;

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these ships must pass along the coasts of your Empire; storms and winds may cause them to be wrecked on your shores, and we ask and expect from your friendship and your greatness, kindness for our men and protection for our property. We wish that our People may be permitted to trade with your People, but we shall not authorize them to break any law of your Empire.

Our object is friendly commercial intercourse and nothing more. You have many productions, which we should be glad to buy, and we have productions which might suit your people.

Your Empire hath a great abundance of coal, this is an article which our steamships, in going from California to China, must use. They would be glad that a harbour in your Empire should be appointed, to which coal might be brought, and where they might always be able to purchase it.

In many other respects commerce between your Empire and our Country would be useful to both. Let us consider well, what new interests arise from these recent events, which have brought our two countries so near together;—and what purposes of friendship, amity and intercourse they ought to inspire into the breasts of those who govern both countries.—Farewell.

Given under my hand and seal at the City of Washington, the 10th day of May, 1851, and of the Independence of the United States the seventy-fifth.

[SEAL]

MILLARD FILLMORE.

BY THE PRESIDENT

DANIEL WEBSTER,
Secretary of State.

Connarroe collection, Historical Society of Pennsylvania.

The foregoing letter is not included in the "Narrative of the Expedition . . . under the command of Commodore M. C. Perry," etc., published in three quarto volumes at Washington, 1856. Compare with President Fillmore's letter of November 13, 1852, to the Mikado. The above document, written by Mr. Fillmore and countersigned by Daniel Webster, bears no indication of having been presented to the Mikado of Japan. It is probably the first letter drawn up for the purpose, the letter of November 13, 1852, being substituted for it.

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A QUESTION OF SALT.

WASHINGTON, June 17, 1851.

HON. W. A. GRAHAM, SECY. OF THE NAVY.

DR. SIR: I send herewith for your consideration, a copy of a Report made to the Gen[l]. Assembly of the State of N. York on the manufacture of salt—as complaints are made that the regulations of your Department, requiring that salt provisions for the use of the Navy should be put up in Turks Island salt, unjustly depreciate the value of the coarse salt of that State.

Truly yours,

MILLARD FILLMORE.

Navy Department.

See Fillmore to Secretary of Navy, July 17, 1852.

TO MEET PERUVIAN REPRESENTATIVE.

The President will be happy to see the Secretary of State at 12 to day with the Chargé of Peru as suggested.

Wednesday, June 18. [1851]

Webster collection, Library of Congress.

AN APPOINTMENT.

To HON. CHARLES M. CONRAD, *Secretary of War:*

You are hereby appointed Acting Secretary of the Navy during the temporary absence from the Seat of Government of the Hon. William A. Graham.

MILLARD FILLMORE.

WASHINGTON, July 11, 1851.

Navy Department letter-books.

A second letter to same effect May 19, 1852; 3d letter to same effect (absence of Kennedy) September 3, 1852; 4th letter, A. H. H. Stuart, to same effect, September 25, 1852; 5th letter, Charles W. Skinner, same effect, September 27, 1852. All in letter books, Navy Department.

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TO THE SECRETARY OF STATE.

WASHINGTON, July 19, 1851.

HON. D. WEBSTER,

MY DEAR SIR: I am happy to see by the Telegraph that you arrived safely in N. York last evening and was *"enthusiastically received."*

Mr. Benjamin from N. O. called here yesterday, expressing great anxiety about the Tehantepec [*sic*] treaty. Says it is all important that Mr. Letcher should return by the 1st of Sept, as there is to be an extra Session of the Mexican Congress at that time, and that Mr. L. has said that he never intends to return and he does not believe that he does. He further says that the Rail Road Co. intend to insist on the validity of their grant. That they will send out 500 men to prosecute the work, and they will be prepared to resist any attempt to drive them off; and that a collision with the Mexican authorities will force this Government either to sustain its own citizens, or declare that they are violating the law of neutrality, and unite with Mexico in punishing them.

I deem this a very important national enterprise; and am prepared to do any thing we can honorably to sustain it. I have accordingly directed Mr. Derrick to ascertain from the Mexican Minister if there will be an extra session of the Mexican Congress in Sept, and if so to write Mr. Letcher and ascertain from him whether we can certainly rely upon his being there, and if not we must appoint another person. If a new man is to go, it is even more important that he should be there at the Extra Session than if Mr. Letcher returned. I doubt not the British minister is doing what he can to defeat the grant, and the Treaty, and I fear that all will be virtually settled at the Sept. Session. I fear all will fail, ***but there must be no failure on our part*** to accomplish so desirable an object.

While, however, I am willing to do all we can legitimately to accomplish this object, I am not willing to see the nation involved in war with Mexico to gratify the wishes

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or cupidity of any private company. And I think Mr. Benjamin should be given distinctly to understand (if you concur with me) that these are our views and that we shall not be coerced into any other line of conduct.

Mr. Benjamin will visit you soon.. I enclose some slips on this subject from the *"True Delta"* of the 9 and 10th inst.

Since I commenced this letter I have received through Col. Burnley a telegraphic despatch from Mr. Letcher, dated on the 17th saying: "I have received important communications from Mexico. Hope no action will be taken till I reach Washington city in five days."

When he arrives, should I deem it important for you to be here I will telegraph you.

I write in haste and hardly legible but I am

Truly yours, MILLARD FILLMORE.

Webster collection, Library of Congress.

TO THE SECRETARY OF STATE.

WASHINGTON, July 19, 1851.

HON. D. WEBSTER: I wrote you yesterday at N. Y. on the subject of the Tehuantepec Treaty, and this morning received your note of yesterday saying that you were to leave for Boston last evening.

We had only Messrs. Stuart[1] and Conrad at our Cabinet meeting to day, but fortunately no business. Mr. Corwin is expected tomorrow.

I enclose you a very excellent letter from *"Kossuth"* in which he does no more than justice to you for your unanswerable and *unanswered* letter to the Austrian Mission. You will note his suggestion at the close.

I am truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

1. Alexander Hugh Holmes Stuart was appointed by President Fillmore to be Secretary of the Interior, and held that office from July 22, 1850, to the close of Mr. Fillmore's Administration. Thomas Corwin, referred to in this letter, was Secretary of the Treasury. Charles M. Conrad, the Secretary of War, took office July 15, 1850, and served till March 7, 1853, when he was succeeded by Jefferson Davis.

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TO THE SECRETARY OF STATE.

WASHINGTON, July 26, 1851,
3 P. M.

MY DEAR SIR: The Cabinet has just adjourned. Mr. Corwin is extremely anxious to see you before you go North. When will you return here?

I think we were misled by Mr. Letcher's despatch of the 17th. He should have been here two days since. But instead of that I now have one dated yesterday at Frankfort saying that he "will be in Washington in a few days, ready to obey the President's wishes."

This is a hot day here, and I have concluded to leave for our Virginia Springs in company with Mr. Stewart [? Stuart] on the 5th of August.

I received yours of the 23d this morning, giving a most interesting account of Marchfield [*sic*] and its vicinity. It was so refreshing this hot day that I read it to Mrs. F. and the Cabinet and we all envied you your delightful retreat. It must be a perfect paradise; and if I could annihilate an intermediate space I should be very happy to look in upon you. But our messenger waits.

Adieu. I am as ever truly yours,

MILLARD FILLMORE.

HON. D. WEBSTER.

Webster collection, Library of Congress.

RELATIONS WITH MEXICO, ETC.

WHITE SULPHUR SPRINGS, VA.,
SUNDAY, Augt. 17, 1851.

HON. D. WEBSTER,

MY DEAR SIR: Yours of the 10th from Franklin came to hand last evening, and I was much gratified to hear that your health is no worse, but I look forward with great anxiety to the 25th which if I recollect right, is the fatal anniversary of the return of your annual disease. I do

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hope it may pass leaving you in health; for if it does I shall think you have found a remedy that may save you from this terrible affliction for all time. I am glad to hear that your son is with you.

Time passes here as usual at a watering-place. I leave in the morning for the *"Sweet Springs"* 17 miles distant, and shall leave for Washington *via* the Natural Bridge, Lexington, Lynchburg, and Charlottesville a week from tomorrow, and hope to be there on the 30th.

Genl. Scott estimated the expense of maintaining our treaty stipulations with Mexico, by defending her from the Indians, at $10,000,000 per annum; and that this must continue for 10 or 15 years. I do not myself suppose that we shall actually expend that, but I fear that it will be a constant source of iritation and complaint, and I am therefore anxious to get rid of it. Mexico may spend the money foolishly, and neglect the defence of her own citizens, but we can hardly be responsible for that.

I still hope that Mr. Corwin will consent to remain. I believe the whole Cabinet think he should. It will be very difficult to supply his place.

I am truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

THE CUBAN AFFAIR—VARIOUS MATTERS.

HON. D. WEBSTER,

MY DEAR SIR: I returned somewhat prematurely and in much haste on Saturday evening, and have been very busy with Cuban matters ever since.

I was not satisfied with the excuse made by the Collector at N. Orleans for suffering the Steamer Pampero to sail for Cuba without any effort to stop her, and I have removed him and appointed Mr. Adams in his place.

I have issued new powers either to the Collectors or Marshalls under the 8th Section of the act of 1818, at New Port, N. York, Philadelphia, Baltimore, Charleston, Savan-

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nah, St. Augustine, Key West, Mobile, N. Orleans & Galveston, and a new circular enjoining vigilance upon the district attorneys at those places, and requiring all the collectors, district attorneys and Marshalls at those places who may be absent from home to return *forthwith*, and attend vigilantly to prevent any expedition from being fitted out against the provisions of that act. The army and Navy have also been called into requisition at any place where we have troops or vessels to aid in arresting any such expedition.

In times like this, the telegraph in the hands of irresponsible and designing men is a tremendous engine for mischief, aided as it is in many places by a mercenary and prostituted press. Agitation and excitement seem to pervade all the large cities, and this is greatly aggravated by unscrupulous partizans who desire to turn it to political account against the Administration. I think the summary execution of the 50 prisoners taken in Cuba, was unfortunate. This wholesale slaughter of officers and men in so summary a manner, naturally excited the sympathy and indignation of the community. But I still hope to prevent any further violation of our neutrality laws, and to save our young men from a similar fate.

Lopez seems still at large. But making no head way. Reports are so contradictory we know not what to believe. He can not remain in *Statu quo*. He must advance or fail.

I have yours of the 19th & 23d, and saw the one of a later date to the P. M. Genl, and I have hardly words to express the gratification I feel that you have thus far escaped your annual catarrh with a prospect of avoiding [it] entirely. Do make yourself perfectly easy and enjoy the quiet of your resting place. Your presence at the council board would be very acceptable, especially just now; but it is not indispensable, and I hope you will feel no anxiety on the subject.

I am willing that Mr. Forward should be recalled at once, and the place remain open till the meeting of Congress.

I still faintly hope that Mr. Corwin may conclude to remain. At any rate he will not resign till after the October

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election. I shall be greatly puzzled to find a successor. I have thought of none better than Joseph G. Ingersoll. But Pa. is all in confusion, and I can not tell till after the election whether it will do to appoint him.

I fear I can not go to Boston, this Cuban matter may prevent.

I am told that Mr. Walsh will decline the appointment of Secy of legation to Mexico, unless he can have some assurance that when the Mission is vacant, he shall be *chargé* &c I think I will wait a little and see if I can not find another person.

I enclose you two private letters from Buckingham Smith, the *locality* of our embassy seems somewhat singular, and the statement as to Mr. Tasistro is worthy of consideration. I fear from what I have heard of his character that it may be true. But you can judge best.

I write in great haste but am, my Dear Sir,

Truly & sincerely yours,

MILLARD FILLMORE.

P. S. If the present troubles continue I think I shall appoint Mr. Crittenden acting Secy of State as soon as he returns. Mr. Derrick is very feeble and it is important for one to execute many of the orders well, that he should hear their discussion in council.

Webster collection, Library of Congress.

CONFIDENTIAL, TO MR. WEBSTER.

WASHINGTON, Sept. 10, 1851.

HON. DANIEL WEBSTER,

MY DEAR SIR: I was much alarmed last evening by hearing that a telegraphic despatch had been received, saying that you were very sick, but was relieved this morning by another in the *Republic*, saying that you were in Boston and very well.

I infer however from yours of the 8th which has just come to hand, that neither despatch was entirely correct. But I am greatly gratified to learn that you have thus far

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escaped the *catarrh.* I am sorry however to hear that you are threatened with the gout. I know nothing of the disease except by report, but if not dangerous, it must be extremely painful. I hope soon to hear that you are entirely restored. I shall be happy to see you here at your earliest convenience, but not so soon as to endanger your health.

The telegraph brings us the afflicting intelligence of Mrs. Crittenden's death. This will be a severe blow to Mr. Crittenden, and may delay his return for some time. I feel that it is a very great loss to our circle of friends. She was a most remarkable woman, and I should think almost indispensable to her husband's happiness.

I have declined the invitation to Boston. I feel unwilling to leave the city while the Pampero is yet at sea. Should she be captured by a Spanish man of war, before landing in Cuba, it might present a very delicate and embarrassing question, and I should prefer being here where I could act promptly.

The vacancy occasioned by the death of Judge Woodbury will soon have to be filled; and I should be happy to see you that we might converse freely on the subject.

I believe that Judge McLean is the only Whig now upon the Bench; and he received his appointment from Genl Jackson. I am therefore desirous of obtaining as long a lease and as much moral and judicial power as possible from this appointment. I would therefore like to combine a vigorous constitution, with high moral and intellectual qualifications, a good judicial mind, and such age as gives a prospect of long service. Several distinguished names have occurred to me, but I do not consider myself so intimately acquainted with the N. England bar, as to be able to form a competent opinion. I have however formed a very high opinion of Mr. B. R. Curtis. What do you say of him? What is his age? constitution? & legal attainments? Does he fill the measure of my wishes?

The weather is extremely hot and uncomfortable. Nothing new. I am truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

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TO MR. WEBSTER.

WASHINGTON, Sept. 12, 1851.

HON. DANIEL WEBSTER,

MY DEAR SIR: I have yours of the 10th and regret to hear of the accident which exposed you to the night air to the injury of your health.

I am happy to see that we concur in opinion as to Mr. B. R. Curtis. I shall wait until you can see Mr. Choate, and if all is satisfactory, I will issue the commission at once.

Since declining the invitation to Boston, we have intelligence that the Pampero is at Jacksonville, and probably she will make no further effort on Cuba. Learning from telegraph that the motives for my declining were likely to be misunderstood and misrepresented, and this change in public affairs leaving one at liberty to attend, I had a Cabinet meeting this morning, and most of the Cabinet thought upon the whole I had better go, and I have concluded to do so. I am also urged to this by a desire to visit my family who are detained at N. Port, by an accident, by which Mrs. F. has sprained her foot so seriously as to be unable to touch it from the floor. I fear she will have great difficulty in returning to Washington.

But I shall desire to see you very much, and if you cannot be at Boston, I shall try to go to Marshfield.

I write in haste but am

Truly yours,

MILLARD FILLMORE.

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ENGLAND TO PROTECT CUBA.

WASHINGTON CITY, Oct. 2, 1851.

HON. D. WEBSTER,

MY DEAR SIR: Yours of the 28th enclosing the application of Julius C. Kretschmar for the consulate at Palermo

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came to hand yesterday, and I regret to hear that you are not yet free from your afflicting catarrh.

I intended to have seen you again before I left Boston but when they sent for me to go to the dinner, I understood you were engaged in receiving the ladies, and I went directly from the dinner to the cars.

My visit was a very agreeable one, but very fatiguing. I am gratified to hear that it passed off satisfactorily to the Bostonians, for really they are a very remarkable people. No other city, I think, could have made so fine a display, and I was particularly gratified to see the unequivocal demonstration of respect and esteem for you which were manifested at the State House.

Since writing the foregoing I have seen a telegraphic statement in the Philadelphia papers of the 30th saying that there was a rumor in Boston that you were dangerously ill. I hope and trust that this is not so. I have sent to the Department of State and they have no such intelligence; and as the telegraph lies very much I sincerely hope it lies in this instance.

Our weather here is very fine, and I really wish you could be here to enjoy it with us.

I will wait until I hear from you again before filling the consulate at Palermo.

I wish we could fill the commission at China. Genl. Edna is pressing and Palmer from N. York is here again. Mr. Graham thinks Edna is not fit and recommends Waddell if we go to N. C. but I think some commercial town is most likely to furnish a proper man.

Nicaragua you see is in a state of Revolution. I think it would be well that our consul was at Realigo, and if Mr. Boone is not going should we not appoint another.

Mr. Rives writes that a treaty has been entered into between France, Spain and Great Britain to guaranty Cuba to Spain, but does not send it, or its contents or date. The English Chargé gives verbal notice that England has ordered her vessels to protect Cuba against the unlawful invasion from this country, but says he knows of no treaty. Mr.

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Rives has been written to for further information. It appears to me that such a step on the part of G. Britain is ill advised; and if the attempts upon Cuba shall be renewed (which I trust they will not be) any attempts to prevent such expeditions by British cruisers must necessarily involve a right of search into our whole mercantile marine in those seas, to ascertain who ought to be arrested, and who ought to pass, and this would be extremely annoying and well calculated to disturb the friendly relations now existing between the two governments.

But I have been interrupted and the mail is closing and I have not time to say more. When may we hope to have the pleasure of seeing you in Washington? Though your presence would at all times be very acceptable, yet give yourself no uneasiness. Remain quiet until you feel able to come.

In hopes that your health may be speedily restored,

I remain sincerely yours,

MILLARD FILLMORE.

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DISTURBANCES IN MEXICO.

WASHINGTON CITY, Oct. 10, 1851.

HON. D. WEBSTER,
Secretary of State,

MY DEAR SIR: Yours of the 4th from Marshfield, came to hand on the 7th and I am much gratified to learn that your *catarrh* is in its last stages; and that we may expect you here by the twentieth.

An insurrection or Revolution seems actually to have broken out in Tamaulipas, Mexico. In anticipation of this I had issued authority to Generals Twiggs and P. F. Smith, with instruction to prevent any infraction of our neutrality laws on the Mexican frontier; and I have as yet received no information that any armed or military expedition has

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been fitted out from our territory against Mexico. It appears from the newspaper report that Texans are engaged in the fight, but whether they meet this as an organized military body or individuals does not appear.

The Mexican Minister has, however, requested that a proclamation should be issued, because it was done to prevent the Cuban expedition. The cases are by no means parallel, and I doubt some the policy of issuing these proclamations too often. When the public mind becomes familiarized to them, they lose their effect as a warning to prevent crime. Still, there is danger that Mexico may feel jealous if not done, and may, if the revolution should prove successful, distrust the sincerity of our friendship. I shall, however, consider and settle it in Cabinet council to day.

Since writing the foregoing the Cabinet has met and we have concluded that there is not sufficient information of an intent to violate our laws to justify a proclamation at this time.

Since I wrote you before I learn that the French minister has intimated, rather reluctantly, that his government had issued similar orders to its fleet in the West Indies, to those issued by Great Britain in reference to Cuba. A despatch from Mr. Rives, states a conversation with the secy of Foreign Affairs, in which he denied all intention of interference by the French government.

This presents a singular state of things, and looks as though there was a little *finessing* between G. Britain and France, to court favor with Spain, and if possible not offend us, or at least it looks as though France intended this.

Joseph Blunt of N. York, whom you must know, a lawyer and batchellor [*sic*] and author of the *Historical Register,* and a work on commercial law desires some foreign appointment. Would it not be best to offer him China. I think him every way qualified except perhaps a want of knowledge of foreign languages, and I can not say he has met this: He is the best man I can think of for this place.

Our weather is uncommonly fine and I wish you were here to enjoy it.

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Mr. Corwin has concluded to remain till the meeting of Congress, and I trust that by that time he will see no occasion to leave.

I am truly yours,

MILLARD FILLMORE.

P. S. I enclose an article from the *Republic* of this morning which does you good justice and no more.

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A NAVAL COMMAND.

[WASHINGTON, Nov. 11.? 1851.]

[TO THE SECRETARY OF THE NAVY.]

I do not understand Capt. Dulany as objecting to the command to which he is now ordered but he desires some assurance that junior officers shall not be placed in command of a fleet in preference to himself, because of this service. It appears to me that each selection should be made when the exigency arises requiring it and that the department should not be tramelled by any previous committment. It must be presumed that when a vacancy occurs, if under all the circumstances Capt. D. is the proper person, that he will be selected. But I think no assurance should be given in advance to any officer. Please notify the Capt. of this decision.

MILLARD FILLMORE.

P. S. I return all the papers.

Navy Department.

The foregoing letter was written by President Fillmore on the back of a letter from William A. Graham, Secretary of the Navy, dated November 10, 1851, in which the Secretary states his reply to a request from Captain Bladen Dulany, who on November 7, 1851, applied for a change in command. There are also filed with the above in the Navy Department several letters, being correspondence between Captain Dulany and the Department, to one of which a note of reference has been added by the President.

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APPARENT TREATY VIOLATION.

[WASHINGTON], Dec. 7, 1851.

SECRETARY OF STATE,

MY DEAR SIR: I cut the enclosed from an editorial of the N. Y. *Herald* yesterday. It seems to me to be in direct violation of the treaty. Is there any information on the subject in the State Dept.?

Truly yours,

MILLARD FILLMORE.

[Extract.]

It is highly desirable, and it is high time to have an interpretation of the Nicaragua treaty. It either means something or nothing. That the British agents in Nicaragua regard it as a dead letter, we have the satisfactory proof in the late outrage and in the authority upon which it was committed. We have upon our table a pamphlet, entitled "Municipal Ordinances, for the government and regulation of the city and port of Greytown, in the kingdom of Mosquito; also, the harbor regulations and schedule of port charges, as adopted by the City Council of Greytown. Printed by J. de Cordova, Kingdom, Jamaica, 1851." The preamble to this pamphlet is as follows:

"WHEREAS, On the 15th day of April, *Anno Domini*, 1851, at Greytown, in the kingdom of Mosquito, did assemble, at the request of his Majesty's agent, James Green, Esq., her Britannic Majesty's Acting Agent and Consul General, the house-holders, residents of the said town; and in public Convention did agree to a town government for Greytown, upon the following basis," etc.

Then follows a statement of the election of the five aldermen of the corporation, who were sworn in by her Majesty's agent, and the validity of this organization is certified by James Green, Chairman, the Council. The city constitution and the laws and regulations of the port, bear the same endorsement of ratification.

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GIVING A REFERENCE TO VATTEL.

Dec. 11, '51.

TO THE SECRETARY OF STATE:

MY DEAR SIR: In answer to your note I would say that my edition of Vattel is 1849.

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Chap. 19 treats on the subject, at page 100-103. In Sections 218-220 & note b. to the latter.

Truly yours,

MILLARD FILLMORE.

See also Wharton's State trials, p. 89 for Jefferson's letter to Mr. Morris. Same 3 Jefferson's Corr. 271.

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WELCOME TO KOSSUTH.

Dec. 16 [1851].

The President herewith transmits the Hon. Secy of State the joint resolution of welcome to Kossuth.

The President would suggest that a copy be sent by the chief clerk or special messenger, and that the letter express simply his cordial concurrence in the Resolution.

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Autograph letter, in pencil, but not signed.

"CONFIDENTIAL."

The President desires to see the Secretary of State on a *confidential* matter and will call at his convenience.

Friday 1 P. M. Jany. 9 [1852].

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Autograph letter, not signed.

OUR ATTITUDE TOWARD FRANCE.

January 12 [? 1852].

The President has the honor herewith to return to the Secretary of State his despatch No. 38 to our Minister at Paris, with his approbation of its general tenor. But begs leave to suggest that a sentence be marked on the 3d page, would seem to convey the idea that the United States would

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not consider a government as lawfully established unless it was founded by the consent of the people. This may not be material in this case as the people seem to have *ratified* the Revolution; but is the sentiment quite correct? Do we ever require more than that implied assent, which is to be inferred merely from the stability of the new government, and its apparent power to maintain itself? and would not any scrutiny beyond this to ascertain whether it was founded by the consent of the people be difficult and inconvenient? I make these suggestions because this despatch will undoubtedly form a model for all despatches hereafter in similar cases; and some may arise where the government is permanent, but was not founded by the consent of the people. If I am right in these suggestions, the sentence might be transposed so as to read,

"Whatever form of government may exist in a country which appears to be settled and permanent, or which as in this case has received the sanction of the people, the United States regard as legitimately established."

Quere? Will not the allusion to wars and bloodshed to establish liberty, and the failure of the object, as mentioned on the 4th page, give unnecessary offence to the French government and nation?

Webster collection, Library of Congress.
Autograph letter, not signed.

ADDRESS OF THE BALTIMORE COMMITTEE.

WASHINGTON, Jany. 22, 1852.

TO THE SECRETARY OF STATE,

MY DEAR SIR: I received the inclosed copy of the address of the Baltimore Committee just as I was retiring to bed at 11, last night.

I think you had better draft an answer, and say by the bearer when you can have it ready, and I will call a meeting of the Cabinet.

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I will see you at your office if you will let me know when you come.

Truly yours,
MILLARD FILLMORE.

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RELATING TO REMOVAL OF A JUDGE.

The President has the honor to enclose to the Secretary of State a copy of the Atty. Gen's opinion as to the power to remove the Territorial Judge in Minnesota, requested by the Judiciary committee of the Senate and would be glad to have the Secretary add any suggestions or arguments of his own.

Jany. 24 [? 1852].

Webster collection, Library of Congress.
Autograph note, not signed.

RELATING TO FUGITIVE SLAVES.

WASHINGTON CITY, April 17th, 1852.

THE ATTORNEY GENERAL,

MY DEAR SIR: Some time in March, 1851, an application was made to me to pardon Daniel Drayton and Edward Sears, convicted in this District of assisting slaves to escape. My impression is that I referred the papers to you for a legal opinion on the power of the Executive to grant a pardon in such a case. The application is again renewed and on inquiry at the State Department the papers cannot be found, but according to my recollection they were convicted of the offence under an old law of Maryland by which they were subject to a fine for each slave, one half to the use of the master and the other share to some charitable institution, and that the amount of this fine was some fourteen thousand dollars and that they were to stand committed until it was paid. If I am right in this state of facts, which

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you will be able to ascertain from the papers if they are with you, I then wish your opinion on the constitutional power of the Executive to grant a pardon which shall release these convicts from their liability to pay this fine to the use of the owner of the slaves and the benefit of the charitable institution. And in determining this matter I should like also your opinion on the question, Whether this conviction deprives the owner of the slaves of his *civil* action for the injury which he has sustained; and, Whether, if I grant a pardon, which releases the convicts from imprisonment, a civil action could be maintained by the master against the convict on the adjudication in this criminal prosecution. These latter questions are only material in case I have the power to grant a pardon at all.

I shall be happy to have your opinion on the subject at your earliest convenience.

I am your obt. servt.,

MILLARD FILLMORE.

Crittenden collection, Library of Congress.

TO HEAD OFF FILIBUSTERS.

WASHINGTON CITY, May 17th, 1852.

THE SECRETARY OF THE NAVY,

MY DEAR SIR: I have just issued an authority to Hugh Maxwell, Collector at New York, under the 8th section of the Act of April 20, 1818, to arrest any unlawful expedition that may be attempted to be fitted out within his district, and I have given him power to call upon any military and naval officers, that may be there, to aid him in the execution of this duty, and I will thank you to issue the necessary instructions to the Naval officer in that district.

I am your obt. servt.,

MILLARD FILLMORE.

Navy Department.

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A CABINET CALL.

The President respectfully requests the Secretary of State to attend the Cabinet Meeting today at 12 o'clock.

[*By a Secretary.*]

May 31, 1852.

Webster collection, Library of Congress.

AN APPLICATION.

WASHINGTON CITY, May 17, 1852.

MY DEAR SIR: I herewith return Mr. Heap's letter, which you handed me this morning, and shall give his application due consideration.

I am your obt. servt.,

MILLARD FILLMORE.

ROBERT BEALE, Esq.,
Sergeant at Arms to the Senate.

Collection, Historical Society of Pennsylvania.

ISSUES DISCUSSED WITH THE SECRETARY OF STATE.

WASHINGTON CITY, May 20th, 1852.

[TO DANIEL WEBSTER]

MY DEAR SIR: Yours of the 12th inst. came duly to hand, but I have delayed answering it, for the purpose of seeing a translation of Mr. Hülsemann's letter, which I did not get until yesterday. I am exceedingly gratified to learn that your injury was not so severe but that we may soon hope to see you with us again. The anecdote, which you relate of your old friend who watched you so intently in the moment of danger, is truly touching, and the graphic manner in which you have described it presents a scene, which would form a beautiful subject for a painting. It must have been some gratification, at least, amid your afflictions to witness the universal sympathy at your misfortune, and the deep

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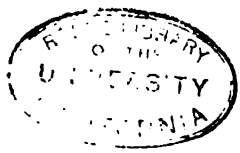
interest which everyone took in your recovery. I perceive, by the papers, that you are soon to speak at Faneuil Hall, and I therefore infer, that, with the exception of your hands and arms, you are quite recovered.

In regard to a further reply to Mr. Hülsemann's letter we will consider of that when you return. My own impression is, however, that the most dignified as well as expedient course for us, will be, to limit the reply or communication to Mr. McCurdy to that part of it which complains of the disclosure of his communications by the State Department. Mr. Bodisco expressed a doubt to me whether he is the "Hülsemann," the Author of the Travels in America, which were so justly and severely criticised in the *North American Review*. But whether he be or not, it seems to me that he is hardly worth, as you say, "a discharge of the lower tier," and it might serve further to irritate the Austrian Government, with which it is our interest, if possible, to be on good terms.

The Mexican Minister has not yet been received, but probably will be on Saturday. I have a copy of his address, which is quite general with warm professions of friendship and a desire to maintain amicable relations between the two Governments. I am a little apprehensive, from what President Arista says in his letter to me, that Mr. Letcher went farther than was intended, in *threatening* the Mexican Government with an interruption of our peaceful relations in case she did not ratify the treaty. By assuming to treat with her, we certainly conceded, that she had a right either to adopt or reject the treaty. It was our duty, as well to the Tehuantepec Company as to the United States, to make every reasonable effort to secure this right of way and protect whatever rights the Company might have under the Garay grant, but the rights of the Company, like the rights of every other contractor with a foreign nation, or its subjects, are rights growing out of a private contract, and if the Mexican government refuses to fulfill that contract, the proprietors doubtless have a claim for pecuniary indemnity, but that is to be settled, like every other claim of this kind



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that our citizens may have against a foreign government. President Arista insists, that they are willing to grant the right of way to our citizens, or others, who will construct the railroad. But I infer, that the great objection to the Garay grant consists in the fact, that a large territory was granted with it, on each side of the proposed railroad, and a much larger territory was to be open to colonization, and that the Mexicans were justly apprehensive, that if the Americans established so large a colony on the Southern boarders of their territory, that it might turn out to be another Texan colony which would involve their nation in war, and might result in another annexation; and, considering what has passed, these apprehensions were not unreasonable. Since you left, Mr. Hargous has submitted a proposition on the subject, which if adopted by the Administration, and sanctioned by Congress, would, I doubt not, finally result in a war between the two countries. Certainly nothing has been left undone, that could have been done, to secure the rights of the Company, and guarantee them by a treaty between Mexico and the United States; but the treaty has failed, and under such circumstances, that I am satisfied, that it can never be ratified, and I shall therefore now wait to see what propositions the new Mexican minister is authorized to make, and I doubt not you will be here before it is necessary to consider them.

I handed your letter to Mr. Hunter that he might copy for you that part of it which you desire. The weather is yet quite cool, and a fire is not uncomfortable in the morning. It would be agreeable at all times to have you here, and especially at the Council board, but yet there is nothing particularly pressing, and I beg of you, to make yourself contented and happy, without any unnecessary anxiety about matters here, until you shall feel yourself perfectly restored and able to return, when I shall be most happy to welcome you.

I am your obt. servt.,

MILLARD FILLMORE.

"The Letters of Daniel Webster . . . edited by C. H. Van Tyne," pp. 527, 528.

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DELINQUENCY OF LIEUT. SUTHERLAND.

WASHINGTON CITY, June 3rd, 1852.

THE SECRETARY OF THE NAVY,

MY DEAR SIR: I have the honor herewith to inclose you a report of the Fourth Auditor, received through the Secretary of the Treasury, stating the delinquents under the Act of January 31st, 1823. I beg leave to call your attention to the delinquency of Mr. Sutherland, and shall be happy to have your advice in reference to that, or any other delinquency, under the act of January 31st, 1823.

I am your obt. servt.,

MILLARD FILLMORE.

Navy Department.

There are other letters from the Treasury Department to the Navy Department on this matter. One of June 8, 1852, was referred to the President and bears his endorsement: "Have steps been taken to compel a settlement of this account? M. F."

Lieut. J. D. Sutherland of the Navy was acting as Paymaster of the Marine Corps at the time mentioned. The Fourth Auditor referred to above was A. O. Dayton; the Secretary of the Treasury, Thomas Corwin.

DEATH OF HENRY CLAY.

WASHINGTON CITY,

Tuesday 12½ o'clock P. M., June 29th, 1852.

THE SECRETARY OF THE NAVY.

SIR: The tolling bells announce the death of the Hon. Henry Clay. Though this event has been long anticipated, yet the painful bereavement could never be fully realized. I am sure all hearts are too sad at this moment to attend to business and I therefore respectfully suggest that your Department be closed for the remainder of the day.

I have the honor to be

Your obt. servt.,

MILLARD FILLMORE.

Navy Department.

This letter is followed by the order of Secretary Graham closing the Department as suggested.

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RESIGNATION OF SECRETARY GRAHAM.

EXECUTIVE MANSION, WASHINGTON CITY, June 30th, 1852.

SIR: I received last evening with unfeigned regret, your letter of the 28th inst., tendering your resignation as Secretary of the Navy. Our official intercourse has been so intimate and so entirely harmonious that it seems like parting with one of my own family to lose you from the Council Board; and I am quite sure that every member of the Cabinet will share with me in this feeling.

I owe you many thanks for the able, faithful and impartial manner in which you have administered your department; and I take this occasion to say that your official conduct has at all times met my entire approval.

I appreciate, most fully, the high sense of delicacy and propriety on your part which induces you to separate from the Administration at this time, lest it might be embarrassed by your connection with it in the coming contest. I can not regret the cause which compels you to this act however I may regret the act itself. It would have been gratifying to me, if the Constitutional advisers with whom I commenced my administration, and who have acted so cordially together, could have remained a unit in person and sentiment until its close. But fate and the sovereign people have ordered otherwise. I yield to the necessity of the case, and shall, but not without great reluctance, comply with your request by accepting your resignation as soon as I can find a successor to supply your place.

Hoping that the Country may appreciate your merits as I have done and reward you accordingly, I remain

Your sincere friend,

MILLARD FILLMORE.

HON. W. A. GRAHAM,
Secy. of Navy.

Navy Department, letter-book.
See letter, same to same, July 24, 1852.

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COMPLAINT AGAINST THE FIRST COMPTROLLER.

WASHINGTON CITY, July 6th, 1852.

HON. JOHN J. CRITTENDEN,
Attorney General:

MY DEAR SIR: I have received from Alderman [J. Franklin] Reigart of Lancaster City, Pennsylvania, a letter complaining most bitterly of the conduct of the First Comptroller, Mr. Whittlesey, in not allowing to the full extent his and other claims upon the Treasury of the United States for alleged services in arresting the reputed murderers of Mr. Gorsuch at Christiana. I felt it my duty to refer the letter at once to the First Comptroller for consideration and report; and I have just received his report on the subject, dated on the 29th ult., accompanied by voluminous copies of letters and accounts, numbered from one to four inclusive, all of which, together with the Alderman's letter, I respectfully refer to you. It appears by the report of Mr. Whittlesey, which I have read, that you have had some knowledge of this affair heretofore, and I have not time to go through with the documents which accompany the report. Will you therefore do me the favor to examine the whole, and give me your opinion as to whether the First Comptroller has, or has not, faithfully discharged his duty in the premises, and if he has not, please to specify in what particular he has failed to do so. Your report on this subject at your earliest convenience will much oblige

Your obt. servt., MILLARD FILLMORE.

Attorney General's Office, Department of Justice.
The papers mentioned are filed with this letter in the Attorney General's office, Department of Justice, but Crittenden's report is not with them.

THE LOBOS ISLANDS CONTENTION.

WASHINGTON CITY, July 8th, 1852.

HON. DANIEL WEBSTER,
Secretary of State, Boston, Mass.

MY DEAR SIR: Messrs. Crampton and Sartiges asked an interview which I granted day before yesterday, at which

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they renewed their former suggestions in reference to Cuba. I found they had misunderstood our views as to the proper time for considering this subject, and I repeated them, with which they appeared to be satisfied. Mr. Crampton has today addressed a note on the subject to the Department, which I have just read. It is merely an argument a little more *in extenso* than his verbal communication in favor of the proposition which France and England had submitted. It occurs to me, on further reflection, that the Sandwich Islands are likely to present about the same difficulty as Cuba, and that whenever the subject is taken up for consideration it might be advisable to consider and settle both at the same time. Please think of this subject, and give me your views. There will be ample time to consider the whole before we shall be called upon to act.

Mr. Hunter has sent up the draft of a reply to the Peruvian Minister's note on the subject of the islands of Lobos. I confess that I have some doubts, whether the partial occupation of the islands by the inhabitants of Peru for fishing, hunting, and gathering eggs, and the assumption by the state to regulate these subjects by legislation, as alleged in the Peruvian Minister's note, if true, has not given to Peru a better claim to these islands than can be possessed by other nations. Perhaps I am a little over-scrupulous on this subject, in consequence of the weakness of Peru to defend her rights. I shall be very unwilling to exact from her what I would be unwilling to claim, under similar circumstances, from Great Britain or France; and I wish to take no position on this subject that shall be either unjust before the world, or from which I may be compelled to recede hereafter. It is true that the islands do not lie within a marine league of the Peruvian coast; consequently, their proximity is not such as to make them a part of the Peruvian Republic. I know not that she claims anything as first discoverer, but even such claim can amount to nothing, unless it be followed by occupation or possession. In this case it is manifest that the islands themselves are uninhabitable, and perhaps it is equally clear that the Peruvians have occupied them in the

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only way they are susceptible of occupation,—that is, by occasional visits to them for hunting, fishing, &c., and the assertion of a right to control them by legislation. The question, therefore, narrows itself to this;—Can any one nation appropriate a barren desert island to its own use, which is uninhabitable for want of water, by occasionally occupying it for specified objects of a brief and transient character? If it can, then I think Peru has an exclusive right to control these islands, but if not, then they must, like the ocean, be deemed common property to all nations, to be used by each for its own convenience in such a way as not to prejudice the rights of all others. The latter I perceive is contemplated by your reply to the Peruvian Minister, but I shall withhold it, until I hear further from you on the subject.

I am your obt. servt.,

MILLARD FILLMORE.

Collections, New Hampshire Historical Society, Concord, N. H.

BRITISH ATTITUDE AS TO THE LOBOS ISLANDS.

WASHINGTON CITY, July 16th, 1852.

HON. DANIEL WEBSTER,

MY DEAR SIR: I received yesterday three letters from you, all dated at Franklin, N. H., on the 13th inst., and am gratified to learn that you have reached that cool retreat without accident, and that you seem to be enjoying the scenery of your early days with a relish that few can appreciate. I am pleased to see that the Bostonians have honored themselves, in honoring you, by a splendid and cordial reception. It is quite manifest that a change has come over the spirit of their dreams within the past year.

The Mexican Minister has replied to your last note to him, as I am informed, that he has no propositions to submit, but as his letter is not yet translated I have not seen it. I think the Senate will, in a few days call for the whole correspondence, and as the matter may now be considered as closed, I see no objection to giving it to them. They have

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just called for Mr. Walsh's correspondence, in reference to Hayti. I wish you would consider seriously what objections there may be to the recognition of the independence of Hayti and the Dominican Republic and of Liberia. Some treaty stipulations would greatly facilitate our growing commerce with these places.

We have just received the correspondence transmitted to Parliament, in reference to the Lobos islands, which extends from the years '32 to '52. I have glanced at it, and find that the British Government was strongly pressed by the commercial and agricultural interests to take the ground, that Peru had no exclusive right to those islands, and that all nations had an equal right to take guano from them, and they asked that their merchant vessels might be protected by a man of war in the exercise of this right; but the Government refused to grant the request, considering that Peru had a claim with which England had no right to interfere. Under Secretary Lord Stanley expressing the views of Lord Palmerston in his letter of May 10th, 1851, says: "His Lordship does not find in the Peruvian Constitutions published after Peru had separated itself from Spain, any mention of those islands as being dependencies of Peru; but it appears to Lord Palmerston that their proximity to Peru would give to that state a *prima facie* claim to them.

"But be this as it may, Lord Palmerston fears that there is no ground upon which the British Government would be justified in claiming for British subjects the right to appropriate at their pleasure the guano to be found on those islands."

The same sentiment was reiterated by Under Secretary Addington as late as April 26th, 1852. You may desire to see this document before you reply to the Peruvian Minister's letter.

I am your obt. servt.,

MILLARD FILLMORE.

HON. DANIEL WEBSTER,

Secretary of State, Boston, Mass.

Collections, New Hampshire Historical Society, Concord, N. H.

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ONONDAGA SALT.

WASHINGTON CITY, July 17th, 1852.

THE SECRETARY OF THE NAVY,

MY DEAR SIR: Will you be so kind as to refer Mr. [N.] Randall's letter, addressed to me, which I sent to your Department, requesting that provisions might be packed in Onondaga solar salt, to the Secretary of War for a report from his Department upon the same subject. I have received your report and shall forward it to Mr. Randall.

I am your obt. servt.,

MILLARD FILLMORE.

Navy Department.
Endorsed: "Done July 19."

The Secretary of War acknowledged the receipt of the above on July 24, 1852, and returned the letter of Randall at that time. *See* Fillmore to Graham, June 17, 1851.

OUR FISHERMEN OFF NEWFOUNDLAND.

WASHINGTON CITY, July 20th, 1852.

HON. DANIEL WEBSTER,
Secretary of State.

MY DEAR SIR: Your note of the 17th dated at Franklin came to hand this morning, inclosing a copy of yours of the same date to Mr. Crampton, and Mr. Hunter has shown me your telegraphic despatch of yesterday, requesting him to ask me whether it was not best to send one of our naval ships to Newfoundland to look after the disturbances among the fishermen. I have also perused your article in the Boston *Courier* of yesterday, and sincerely hope that these difficulties will not prove as serious as you seem to anticipate. I have seen Mr. Crampton who informs me that he will leave for Boston to-morrow morning, for the purpose of having a consultation with you upon the subject of the fisheries. He informs me also, that he has addressed a circular to the several governors of the British Provinces of North America advising moderation and forbearance upon this subject. I

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doubt not that when you and he meet you will be able to agree upon some line of proceeding that will allay the present excitement and prevent any bloodshed.

I would suggest that you unite in a publication in which you should express your regrets that any misunderstanding had arisen between our fishermen engaged in the fisheries at Newfoundland, and the colonial subjects of Great Britain; that the differences of opinion which have arisen between the two governments, in reference to their respective rights under the Convention of 1818, have called the attention of both Governments to the subject, and that together with the subject of reciprocal trade between Her Majestys Provinces of North America and the United States, will doubtless become the immediate subject of negotiation between the two countries; that in the mean time and until these matters can be amicably adjusted you both concur in the opinion that under the Treaty of 1818 our citizens had the unquestioned right of fishing on the southern and western Shore of the island of Newfoundland, lying between the islands of Ramea on the south and the island of Quiperon on the North, and of entering upon any unoccupied lands upon the shore of said island between Cape Ray and said island of Ramea, for the purpose of drying and curing fish; and also of fishing upon the shores of the Magdalen island; and with regard to all the rest of the island of Newfoundland, and the other islands and main land of Nova Scotia and New Brunswick, the English Government, so far as they have not conceded it to the French, have the exclusive right of fishing in all the waters adjacent to such islands or main land and within three marine miles of the Shore; but as for those waters in the several bays and harbors which are more than three marine miles from the shore of such bay or harbor upon either side, and within three marine miles of a straight line drawn from one head land to the other of such bay or harbor, that you as the representative of the United States conceived that our fishermen have the right under the treaty to fish therein, but the British Government having held that by a true construction of the Treaty such right

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belonged exclusively to British subjects, and as those waters were thus in dispute between the two nations, you respectively advised the citizens and subjects of both countries not to attempt to exercise any right that either claimed within the disputed waters until this disputed right could be adjusted by amicable negotiation.

I perceive by the papers that your publication in the Boston *Courier* is somewhat misunderstood, and has consequently created unnecessary alarm; and some such joint publication as I have suggested above will, I think, quiet the apprehensions of the country, and be generally acquiesced in and obeyed by the parties engaged in the fisheries. I do not, of course, intend to indicate the precise words of such a declaration, as I write in much haste, and you are much more competent to prepare the article than I am. As to the subjects of negotiation, beyond those growing out of the construction of the Treaty of 1818, I will write you more fully hereafter. I do not know whether our citizens engaged in the fisheries seek for anything more than what they would obtain under the Treaty of 1818 if it received the construction for which we contend. If they do, then that will be one additional subject of negotiation; the right of navigating the St. Lawrence and the Welland Canal will of course be another; but the reciprocal trade between us and the British Provinces is one which I greatly prefer should be settled by legislation. If however that cannot be done, it may be best to settle it by a treaty for a limited time. But as I said before, I will write you more fully upon this subject when I have had more time for reflection.

I have seen the Secretary of the Navy, who says the Mississippi Steam Frigate, Capt. McCluney, is now at New York and could be sent to the Banks of Newfoundland, if desired. She is however as you are aware intended as the flag ship of Capt. Perry and of course will soon be wanted for that Expedition. I thought however that I would wait until you and Mr. Crampton had settled upon something definite, from which proper instructions might be drawn, before I ordered the vessel to proceed to that destination.

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Regretting that this unfortunate business compels you to leave the mountains and valleys of your native state, but hoping that it will detain you but a short time, I remain,

Truly & Sincerely Yours,

MILLARD FILLMORE.

HON. DANIEL WEBSTER,
Secretary of State, Boston, Mass.

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CONSTITUTIONAL QUESTIONS CONSIDERED.

WASHINGTON CITY, July 24th, 1852.

HON. DANIEL WEBSTER,
Secretary of State,
Boston, Masstts.

MY DEAR SIR: I wrote you hastily on the 20th and yesterday received yours of the 21st, dated at Boston, from which I infer that you had not received mine at the time of writing. I promised in that communication to write you further on the subject of the proposed reciprocity of trade between us and the British Provinces, and with that view I consulted the members of the Cabinet at our weekly meeting on Wednesday, all of whom seemed to be averse to making it the subject of treaty stipulation. I have reflected much on the subject since, and with a view of obtaining some necessary information have requested the Secretary of the Treasury to report to me the amount and value of the articles proposed to be interchanged free of duty, which had been exported or imported into Canada within the last three years. I have not yet received his report; but this subject involves questions of such delicate and vital importance that I think if the negotiation is to be entered upon at all, it will be indispensible that it be done here, where the whole matter can be weighed in all its bearings. The following questions well deserve consideration:

First. The express power having been given by the Constitution to Congress, to regulate commerce with foreign

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nations, and to lay and collect duties, has this deprived the treaty-making power of authority so to regulate commerce, as to declare that no duty shall be collected on a particular article imported into this country from abroad?

Secondly. Assuming that the treaty-making power may stipulate to admit certain articles free of duty, is it expedient to exercise that power at this time and in this case?

Thirdly. What effect would such a treaty stipulation have upon that clause in our commercial treaties which declares, that no higher duty shall be imposed upon any goods imported from the country with whom the treaty was made, than is charged upon goods of the same kind imported from any other country? For instance, would such a stipulation as this which proposes to admit hemp and wool free of duty from Canada justify Russia or England in claiming the same privileges for their hemp and wool?

Fourthly. What will be the effect upon the wool growing and hemp raising portions of the United States, if we permit the hemp and wool from Canada to come in free?

Fifthly and lastly. What is to be the effect of such a measure upon the general principle of protection, which it has been our policy to maintain, so far as necessary to encourage the industry of the country?

It seems to me that these questions require such consideration before we enter upon a negotiation of this kind as can only be had by a mutual and free interchange of sentiment at the council board, and I am rather averse to negotiating upon this subject under a state of things that looks a little like coercion on the part of Great Britain, in reference to our fisheries. I had intended to have written you more fully but have been too busy. These questions, however, will suggest to you the difficulties that surround this case. You will recollect that our opinion has been that the question of reciprocal trade should be settled by legislation and not by treaty.

I am your obt. servt.,

MILLARD FILLMORE.

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SECRETARY GRAHAM'S RESIGNATION ACCEPTED.

WASHINGTON CITY, July 24th, 1852.

HON. W. A. GRAHAM,
Secretary of the Navy,

SIR: In my letter to you of the 30th ult. acknowledging the receipt of yours tendering your resignation as Secretary of the Navy, I promised to accept it, as soon as I could find a successor to supply your place. Having now accomplished that object I reluctantly comply with that promise, and hereby accept your resignation to take effect on and after the 25th instant.

I am your obt. servt.,
MILLARD FILLMORE.

Navy Department.

RECIPROCAL FREE TRADE WITH BRITISH PROVINCES.

WASHINGTON, July 25, 1852.

HON. DANIEL WEBSTER,
Secretary of State, Boston,

MY DEAR SIR: I wrote you hastily at 2 p. m. yesterday suggesting some of the difficulties that will present themselves in any negotiation to settle by treaty a reciprocal free trade with the British Provinces, in certain specified articles, and concluded that if the matter was attempted at all it should be done here, after a full and free interchange of sentiments at the Council Board.

At 6 p. m. I received your telegram from Boston, saying you had written me, and enquiring if you should notify the Colonial authorities that we would not submit to the seizure of our fishing vessels. I immediately convened a Cabinet council at 8 last evening, when we discussed your proposition, and I replied in substance that I thought all our communications should be to the British Government, or its Minister and not to the Colonial authorities; but that it was impossible to settle these matters by telegraph, and though

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I regretted to trouble you, I thought the whole matter ought at once to be transferred to the seat of government. I hope you concur with me in this view of the case and that you may be able to give me the benefit of your counsel here, on this troublesome matter, without delay. But if it be inconvenient or your health will be likely to suffer by the journey, then I beg you to remain, and we will do the best we can without you.

I could not, in a telegram, inform you why I thought it not best to make your proposed communication to the Colonial authorities. But they were, *first,* Because by saying that we would not *submit* to a Seizure, might be saying that we would not submit to abide by the Stipulations of a treaty to which we had voluntarily assented, for some signers might be perfectly legal and just, others doubtful, and then again others clearly illegal and unjust. Therefore while we would submit to the former, and contest the doubtful, we would resist the latter not by remonstrance merely but by force if necessary. *Secondly.* I could not explain these shades of difference by telegraph, and a general refusal to *submit* might be deemed a *threat,* that would unnecessarily stir up anger, cause popular agitation and premature commitments on both sides, and finally place us in the wrong by appearing before the world to have claimed that to which we were not entitled.

Thirdly, the Colonies had no power to settle this matter, and it seemed to me therefore somewhat irregular for us, *officially,* to communicate with them on the subject. I know not that it would be deemed disrespectful by the home government, yet nations are apt to be sensitive on any point that touches their national honor; and perhaps we can best appreciate this by imagining how we should feel if G. Britain in a National controversy growing out of treaty Stipulations should address herself, officially, to state authorities, and declare to them that [? what] she would or would not do.

But, *lastly,* I thought this matter had become so important, and delicate that nothing more should be done, until we

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had settled in solemn conclave, precisely what our rights were, in reference to the matter in controversy. It is all important that the public mind should not be misled on this subject. We must, even at the sacrifice of self interest, give to Great Britain all that she has a right to claim under the treaty. This being done, our own rights must be maintained at every hazard and at any sacrifice.

We must clearly distinguish between rights under the Treaty and the enjoyment of privileges, which have been tacitly conceded by G. Britain by not insisting upon a strict compliance with its provisions. We can not be deprived of the former without our own consent, but the latter we must enjoy at the mercy of the rightful owner. If, however, she has permitted us to enjoy them so long that the uninterrupted use of them, has justly created a confidence, that this permission was to continue, and our people have been induced to make great expenditures in anticipation of it, then certainly we have an equitable claim upon the government of G. Britain, that it should give reasonable notice of her intention to resume her rights under the treaty that our people may not be more injured by her gracious indulgence which she has extended than they would have been had she exacted with the utmost rigor all she was ever entitled to claim under the treaty. But for this, we must appeal to her magnanimity, her sense of justice,—and not to arms—and I can not believe the appeal will be made in vain.

Finally, let us first settle our respective rights, and then enforce our own. I fear G. B. is right in her construction of the treaty, but at all events it is sufficiently doubtful for arbitrament. But the bell rings for church and I must close. Excuse errors for I have not time to review or copy.

Truly yours,

MILLARD FILLMORE.

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TO PROTECT AMERICAN FISHERMEN.

WASHINGTON CITY, July 29th, 1852.

HON. DANIEL WEBSTER,
Secretary of State, Boston, Massts.,

MY DEAR SIR: I received two letters from you yesterday, both bearing date at Marshfield July 25th; and in reference to the one of a private character, I think you offer very satisfactory reasons for the course which you have concluded to adopt, although my first impressions were otherwise. I wrote you on Saturday and on Sunday, but of course you had not received either of them. I have concluded to send Capt. Perry with the Mississippi to the fishing grounds to give protection to our fishermen, if any be needed, and to inquire into the whole matter and report here. He received his instructions and left yesterday. I informed Senator Mason that I should send in the Convention between the United States and Great Britain, which had been prematurely published by Mr. Harvey, but Mr. Hunter brought to my recollection the fact, that you desired to accompany my message with a report of the reasons, which induced the Government to enter into that arrangement; and he said that you had been furnished with the requisite papers to prepare such a report during your absence. I am anxious to send this to the Senate as soon as possible, lest the delay may take away the grace of the act, and I shall therefore be happy to receive your report at your earliest convenience. I think I will accompany it with the evidence which has been collected to show that the publication did not take place through any connivance or negligence of the officers in your Department or of the Diplomatic Corps. I shall wait with some solicitude for your decision on the other matter to which you refer in your private note.

I am your obt. servt.,

MILLARD FILLMORE.

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RIGHT OF WAY THROUGH PUBLIC LANDS.

WASHINGTON CITY, July 30th, 1852.

HON. JOHN J. CRITTENDEN,

MY DEAR SIR: I have the honor to transmit herewith, an Act of Congress to grant the right of way through the public lands of the United States to certain roads, and I desire your opinion, whether the provisions of the Act will extend to lands which have been purchased by the United States for lighthouses, barracks, hospitals, arsenals, armories, navy-yards, and other like purposes. I will call your attention particularly to the proviso to Section third of the Bill. As the Bill is sent down for my approval, I shall be happy to have your opinion at your earliest convenience.

I am truly yours,

MILLARD FILLMORE.

Attorney General's Office, Department of Justice.

Crittenden's opinion was given August 4, 1852, a copy being with the President's letter in the files of the Department of Justice. He held that the bill granting right of way did "not extend to land purchased for lighthouses, barracks, dock-yards, etc."

COMPLICATIONS IN NICARAGUA.

WASHINGTON, Aug. 23rd, 1852.

THE SECRETARY OF STATE,

MY DEAR SIR: I herewith return the despatch of Mr. Kerr from Nicaragua, and regret to see that all our efforts to settle the territorial question have been frustrated by the insolence and folly of the Canal agents in that country, and the perverseness of Marcoleta and his associates operating upon the prejudices, hopes and fears of the people of Nicaragua. I do not myself perceive that anything more can be done while these adverse agencies are in operation. I do not see that Mr. Walsh has made any report, but he informed me that before he arrived in Nicaragua the hostility of the Senate to the proceedings of the Administration was made

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known there, and evidently had a very unfavorable influence upon our efforts. The similarity of sentiment which has manifested itself in our Senate here and in the Nicaraguan Legislature shows that it had a common origin, to wit, Marcoleta, and increases the suspicion that he was the person who disclosed the convention. Is the proof strong enough to justify a request for his recall? Certainly he can be of no further use here.

I am truly yours,

MILLARD FILLMORE.

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JUDICIAL APPOINTMENT FOR OREGON.

WASHINGTON, Augt. 27th, 1852.

THE SECRETARY OF STATE,

MY DEAR SIR: I herewith return the papers for the appointment of a judge in Oregon. I perceive that your son Fletcher says, that it is doubtful whether Mr. Train will be able to go. I perceive also that Mr. Sanderson, the editor of the Philadelphia *News,* is very strongly recommended by the whole Pennsylvania delegation for the Chief Justiceship. That paper has done good service to the Administration and been especially devoted to you. If he is willing to take the Assistant Judgeship, and is all that he is recommended to be by the delegation, I would submit whether he had better not be nominated. But before it is done I should like that you should have a conversation with Mr. Chandler, or some other member of the delegation on whom you can rely, to see whether he is in all respects a suitable man for the place.

Have you thought of any candidate for the consulship at Acapulco? If not, please send up any good name, such for instance as George W. Slacum, and we will appoint him so as to be able to fill the place during the recess if he should not accept.

I should be glad to send in the rest of the papers in regard to the Lobos Islands today, if possible. I learn from the

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younger Brooks of the New York *Express*, who arrived here last evening, that some 40 vessels have sailed for those islands under the expectation of being protected in obtaining guano. Their disappointment will consequently be very great. Is it possible to obtain from the Peruvian Minister some recommendation to his government to permit those vessels, which have sailed under this misapprehension, to take their cargoes?

I am truly yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

ON THE SUBJECT OF THE FISHERIES.

WASHINGTON, Sept. 8th, 1852.

THE SECRETARY OF THE NAVY,

MY DEAR SIR: I herewith return to the Department Commodore Perry's despatches on the subject of the fisheries, together with the chart. I would suggest the propriety of sending copies to the State Department.

I am your obt. servt.,

MILLARD FILLMORE.

Navy Department.

Endorsed: "Done Sept. 3d. Ack. & say: That in conformity to the suggestion contained here copies of the papers will be prepared & sent to the Dept. of State. Done Sept. 10."

The directions are in pencil but the "Done," etc., are in ink and in the handwriting of a clerk, while the pencil directions appear to be in the hand of the Secretary himself.

A RUMOR FROM RUSSIAN SOURCES.

WASHINGTON, Sept. 8, 1852.

THE SECRETARY OF THE NAVY,

MY DEAR SIR: Our Minister to Russia, under date of the 17th ult., informs me that information had been received at

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St. Petersburg that two armed vessels bearing the American flag had recently appeared off Queen Charlotte's Island. Please inform me if any of our vessels were probably in that region at that time, or previous thereto.

I am truly yours,

MILLARD FILLMORE.

Navy Department.

LOBOS ISLANDS' INTERESTS.

WASHINGTON, Sept. 10, 1852.

HON. DANIEL WEBSTER,
Secretary of State,

MY DEAR SIR: I went up to Berkeley Springs on Saturday, with the intention of bringing my family home, but finding that Mrs. Fillmore was deriving some benefit from the water I left her and returned on Tuesday evening.

Nothing of importance from your Department has been brought to my notice since you left, nor have I received anything from you, or heard from you, except that I saw by the papers that you had left Boston for Marshfield. I sincerely hope that your health may be improved.

I have received some letters from different places, stating that the writers had sent out vessels to the Lobos Islands for Guano, under the assurance of protection from the government, and complaining that protection was withdrawn. These letters, however, are so identicle [*sic*] in language that I cannot doubt that they have a common origin, though they purport to come from different localities. They are doubtless prompted by a desire, either to embarrass the Administration for political effect, or to lay a foundation for a future claim against the Government for pecuniary indemnity. I hardly think they are entitled to any consideration. I received this morning the inclosed private letter from A. G. Benson which I have thought upon the whole it was my duty to forward to you, as he speaks of things of

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which I have no knowledge and on which I can give him no information. Please to return the letter after perusal.

I am, truly yours,

MILLARD FILLMORE.

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TRANSPORTATION OF STATUARY.

[WASHINGTON] September 22d, 1852.

[TO THE SECRETARY OF THE NAVY]

The Navy Department will take charge of the transportation of Mr. Greenough's group of statuary, now at Leghorn, awaiting to be transferred to the Capitol of the United States, and will give the necessary directions for the shipments of the groups, to be delivered at the Navy Yard at Washington.

MILLARD FILLMORE.

Navy Department.

Horatio Greenough, one of America's most eminent sculptors, received in 1837, a commission from the United States Government for a group of statuary depicting a combat believe a settler and an Indian. This work, called "The Rescue," occupied him, at his studio at Rome, at intervals until 1851, and is probably the group referred to in Mr. Fillmore's letter. Greenough's statue of Washington was an earlier work.

RELATING TO THE NAVAL SERVICE.

WASHINGTON, Sept. 24th, 1852.

HON. J. P. KENNEDY,
Secretary of the Navy.

SIR: I have your communication of yesterday inclosing a list of several officers of the Navy, who had been promoted by appointment during the recess before the last session of Congress, and who were nominated to the Senate during its last session, but upon which nominations the Senate failed to act, and showing that the Naval service is greatly embarrassed, in consequence of the peculiar condition in which

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these officers were left, many of whom are now at sea, and in the performance of important duties. It appears to me, on looking at this subject, that the promotion of a naval or military officer from one grade to another and the acceptance by him of the higher grade necessarily vacates his office in the lower, as the two positions, implying rank and command, on the one side, and subordination on the other, are incompatible with each other. As the commissions which promoted these officers to the higher rank expired at the close of the last session of Congress, the inevitable consequence would seem to be, that these officers are out of commission. They lost their first rank on promotion to and acceptance of the higher, and the commission to the higher having expired, they are no longer officers of the Navy.

The question then presents itself, whether I have the power to commission them again, until the termination of the next session of the Senate. The Constitution declares, that, "the President shall have power to fill up all vacancies, that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.["] In Gen[l]. Swartwout's case, in principle precisely like this, Atty. Gen[l]. Wirt gave it as his opinion to President Munroe [*sic*], on the 22nd of October, 1823, that the President had the power to fill such a vacancy, by granting a new Commission which would expire at the end of the next session of the Senate. See 1st Vol. Opinions of the Attornies General p. 631.

Attorney General Roger B. Taney, now Chief Justice of the Supreme Court of the United States, on the 19th of July gave a like opinion to President Jackson, in the case of Mr. Gwinn, without appearing to have been aware of the opinion of Attorney General Wirt. In that opinion, however, he states that President Adams had filled a similar vacancy in the Navy Agency at Boston by the appointment of Amos Binney. 2nd Vol. Opinions of the Attornies General p. 525.

Attorney General Legare gave a similar opinion, October 22, 1841, without appearing to have been aware of the previous decisions of his predecessors; and in 1846, Presi-

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dent Polk filled a similar vacancy in the Post Office at Buffalo, where he had nominated to the place during the session of the Senate, and the Senate had failed to act upon his nomination.

All this concurring testimony in favor of the authority, without any judicial or executive opinion against it, would seem to leave no reasonable doubt on this head. Yet the intention of the framers of the Constitution evidently was, that these appointments should be submitted to the consideration of the Senate at the first session after they were made. This it is true was done in all these cases, and the Senate had an opportunity to approve or disapprove those appointments, but it is difficult to see how that fact can effect [*sic*] the authority of the President of appointing to fill the vacancy without its approval, and we must therefore conclude that the President might exercise this power, without having previously nominated the officer to the Senate; the consequence of which would be that by continued temporary commissions and an omission on the part of the President to nominate to the Senate he might continue to fill these offices without its concurrence. This would evidently be a violation of the spirit of the Constitution. But it would certainly be in the power of Congress to make such an omission a high crime or misdemeanor, and then to impeach the President for his neglect of duty in omitting to nominate the officers to the Senate.

Seeing the facility with which this salutary provision may be evaded, not to say the strong temptation which may arise to evade it, I shall exercise this power with great reluctance. But considering the serious consequences that may arise to innocent persons, who had reason to suppose they were exercising a legitimate authority in the service of their country, and the injury which might result to the public service by suffering this state of things longer to continue, I have concluded that I have the authority, and that it is my duty to exercise it by giving to those several officers of the Navy who were appointed during the last recess and nominated to the Senate during its last session temporary

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commissions, to expire at the end of its next session; and you will please to make them out and send them up for my signature.

I herewith return you letter No. 1 and your List of Officers, No. 2 and the list from the Secretary of the Senate No. 3 from which you will be able to make out the commissions.

I am your obt. servt.,

MILLARD FILLMORE.

Navy Department.

List No. 2, forty-one nominations, enclosed in letter. Of these eight are other than positions in the Navy. An inserted note states that commissions were issued September 25, 1852.

TO THE SECRETARY OF WAR.

WASHINGTON, Sept. 27, 1852.

HON. DANIEL WEBSTER,
Secy. of State, Boston, Mass.

MY DEAR SIR: Your favor of the 22nd came to hand on Saturday the 25th, and I am pained to hear that you are suffering so much. I would not presume at this distance to advise, but I could not help fearing, on perusing your letter, that you were too abstemious. Is there not danger that a change so great and so sudden may prove more injurious than a little indulgence in your regimen? I can well conceive, that in your situation, you do not desire to be called upon even to "think," and I shall therefore not trouble you with any reference to business, farther than to say that all things appear to be going on very well in your Department.

The new Minister from Peru has been received, but has as yet made no communication beyond his letter of credence, by which I learn that he is fully authorized to treat on all subjects of difference. If we escape a collision, I think we will have no difficulty in obtaining permission for our ships to load on usual terms.

I regret almost as much as you do, that I am not able to confer a diplomatic appointment on our friend Fay. I

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hardly anticipated that the Dr. would accept it, but I find there are few Whigs in these times to refuse such an offer. I believe, however, that this is the last personal obligation I feel bound to discharge, and should anything hereafter occur I shall remember Mr. Fay.

I sincerely hope that the next intelligence we receive will show you convalescent. The weather at this place is now very fine; but whether it will be better for your health than your present locality I am unable to say.

With sincere respect and esteem, I remain

Truly Yours,

MILLARD FILLMORE.

Webster collection, Library of Congress.

SOLICITOUS AS TO MR. WEBSTER'S HEALTH.

WASHINGTON, October 1, 1852.

[TO DANIEL WEBSTER]

MY DEAR SIR: I have this moment received yours of the 28th ultimo, and have perused it with a good deal of solicitude. I am not competent to judge whether such a violent attack of constipation as you have been suffering from can be regarded as dangerous, but I hope not. I shall not cease to feel the utmost solicitude until I know that you are restored to health. I sincerely hope that you may have the benefit of the advice of your old physician from Boston, and after he has paid you a friendly visit, and one which I earnestly desire may be the means of restoring you to health, may I anticipate the satisfaction of hearing from you again. It is a source of great gratification to know that, at the time you wrote, you were free from pain.

All things are going on as well as usual, but I have not been able as yet to obtain any proposition in reference to the Lobos affair from Mr. Osma, the new minister. He left for New York immediately after his reception, and I have

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requested the acting Secretary to ask him to return, and he may be here today.

Hoping soon to hear of your restoration to health,

I remain, truly and sincerely, yours,

MILLARD FILLMORE.

"Private Correspondence of Daniel Webster," edited by Fletcher Webster, pp. 555, 556.

CUBAN AND LOBOS ISLANDS AFFAIRS.

WASHINGTON, October 13, 1852.

[TO DANIEL WEBSTER]

MY DEAR SIR: Your favor of the 8th instant came duly to hand, from which I learn the favorable report of your physicians, which has relieved me of much anxiety. I hope now that you may soon be with us.

On inquiry today, I was informed that Mr. Bradley had not yet returned. All matters are passing on here much as usual.

The filibusters, you perceive, are endeavoring to get up a new controversy with Cuba, but I hardly think they will succeed. The Lobos affair is yet unsettled, but I trust we are making some progress. I do not, however, feel justified in troubling you on matters of business, and therefore content myself with expressing the hope that you may soon be restored to health, and that we shall, ere long, have the pleasure of meeting you at the council board.

Please to make my kindest regards to Mrs. Webster and believe me,

Sincerely your friend,

MILLARD FILLMORE.

"Private Correspondence of Daniel Webster," edited by Fletcher Webster, p. 558.

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ABSENCES OF TERRITORIAL OFFICERS.

WASHINGTON, Oct. 13, 1852.

HON. E[LISHA] WHITTLESEY,

MY DEAR SIR: I have your letter of the 12th requesting my decision as to my power over the absences of territorial officers prior to the Act of August 31st, 1852. My attention had not before been called to the 7th section of the act to which you refer, but I confess that it appears to me that the Act of August 31st, 1852, takes away the power on this subject granted by the Act of June 15th, 1852. I have no doubt of the reasonableness of the absence of Judge Watts from his territory. He has been a most faithful officer, asked and received permission to leave the territory, and was detained in consequence of the illness of his wife, and returned within the time required by me. This permission was, of course, granted while the Act of June 15th was in force, and as he has acted in good faith, I should regret that he should be deprived of his salary. But the law must be executed whatever it is. I do not propose to express any opinion on that point.

I am truly yours,

MILLARD FILLMORE.

From copy of original in files of Attorney General's office, Department of Justice. A copy of Whittlesey's letter of October 12th is in the same files.

TO INCREASE THE MARINE CORPS.

EXECUTIVE CHAMBER, October 29th, 1852.

There being an absolute necessity for an increase of the rank and file of the Marine Corps, to insure efficiency in the vessels of the Navy and to guard the public property at Navy Yards—as reported by the Commandant of the Corps and submitted to me by the Secretary of the Navy;

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and Congress having by its "Act making appropriations for the Naval Service for the year ending the thirtieth of June one thousand eight hundred and fifty," approved March 3d, 1849, "provided, That the President of the United States may substitute Marines for Landsmen in the Navy, as far as he may deem it expedient to promote the efficiency of the service";

Now, therefore, the Secretary of the Navy is hereby directed to increase said Corps of Marines by substituting two hundred Marines, including the requisite number of non-commissioned officers, in lieu of the same number of landsmen in the Navy, and the said two hundred non-commissioned officers and privates are to be enlisted under the provisions of law for the better organization of the United States "Marine Corps."

MILLARD FILLMORE.

Signed document, Navy Department.

TO THE MIKADO OF JAPAN.

[WASHINGTON, Nov. 13, 1852.]

GREAT AND GOOD FRIEND: I send you this public letter by Commodore Matthew C. Perry, an officer of the highest rank in the navy of the United States, and commander of the squadron now visiting your imperial majesty's dominions.

I have directed Commodore Perry to assure your imperial majesty that I entertain the kindest feelings toward your majesty's person and government, and that I have no other object in sending him to Japan but to propose to your imperial majesty that the United States and Japan should live in friendship and have commercial intercourse with each other.

The Constitution and laws of the United States forbid all interference with the religious or political concerns of other

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nations. I have particularly charged Commodore Perry to abstain from every act which could possibly disturb the tranquility of your imperial majesty's dominions.

The United States of America reach from ocean to ocean, and our Territory of Oregon and State of California lie directly opposite to the dominions of your imperial majesty. Our steamships can go from California to Japan in eighteen days.

Our great State of California produces about sixty millions of dollars in gold every year, besides silver, quicksilver, precious stones, and many other valuable articles. Japan is also a rich and fertile country, and produces many very valuable articles. Your imperial majesty's subjects are skilled in many of the arts. I am desirous that our two countries should trade with each other, for the benefit both of Japan and the United States.

We know that the ancient laws of your imperial majesty's government do not allow of foreign trade, except with the Chinese and the Dutch; but as the state of the world changes and new governments are formed, it seems to be wise, from time to time, to make new laws. There was a time when the ancient laws of your imperial majesty's government were first made.

About the same time America, which is sometimes called the New World, was first discovered and settled by the Europeans. For a long time there were but a few people, and they were poor. They have now become quite numerous; their commerce is very extensive; and they think that if your imperial majesty were so far to change the ancient laws as to allow a free trade between the two countries it would be extremely beneficial to both.

If your imperial majesty is not satisfied that it would be safe altogether to abrogate the ancient laws which forbid foreign trade, they might be suspended for five or ten years, so as to try the experiment. If it does not prove as beneficial as was hoped, the ancient laws can be restored. The United States often limit their treaties with foreign States to a few years, and then renew them or not, as they please.

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I have directed Commodore Perry to mention another thing to your imperial majesty. Many of our ships pass every year from California to China; and great numbers of our people pursue the whale fishery near the shores of Japan. It sometimes happens, in stormy weather, that one of our ships is wrecked on your imperial majesty's shores. In all such cases we ask, and expect, that our unfortunate people should be treated with kindness, and that their property should be protected, till we can send a vessel and bring them away. We are very much in earnest in this.

Commodore Perry is also directed by me to represent to your imperial majesty that we understand there is a great abundance of coal and provisions in the Empire of Japan. Our steamships, in crossing the great ocean, burn a great deal of coal, and it is not convenient to bring it all the way from America. We wish that our steamships and other vessels should be allowed to stop in Japan and supply themselves with coal, provisions and water. They will pay for them in money, or anything else your imperial majesty's subjects may prefer; and we request your imperial majesty to appoint a convenient port, in the southern part of the Empire, where our vessels may stop for this purpose. We are very desirous of this.

These are the only objects for which I have sent Commodore Perry, with a powerful squadron, to pay a visit to your imperial majesty's renowned city of Yedo: Friendship, commerce, a supply of coal and provisions, and protection for our shipwrecked people.

We have directed Commodore Perry to beg your imperial majesty's acceptance of a few presents. They are of no great value in themselves; but some of them may serve as specimens of the articles manufactured in the United States, and they are intended as tokens of our sincere and respectful friendship.

May the Almighty have your imperial majesty in His great and holy keeping.

In witness whereof, I have caused the great seal of the United States to be hereunto affixed, and have subscribed

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the same with my name, at the city of Washington, in America, the seat of my government, on the thirteenth day of the month of November, in the year one thousand eight hundred and fifty-two.

Your good friend,

MILLARD FILLMORE.

BY THE PRESIDENT:

[SEAL] EDWARD EVERETT,
Secretary of State.

"Narrative of the Expedition . . . to the China Seas and Japan . . . under the command of Commodore M. C. Perry," etc., Washington, 1856; Vol. I, pp. 256, 257.

The volume from which this letter and the following were transcribed for the present publication, in the library of the Buffalo Historical Society, contains the following autograph inscriptions: "For President Fillmore, with the best respects of M. C. Perry." "Millard Fillmore, September 6, 1856." "Presented to the Buffalo Historical Society by Millard Fillmore, February 10, 1867."

LETTER OF CREDENCE TO COMMODORE PERRY.

[November 13, 1852.]

MILLARD FILLMORE, *President of the United States of America,*

TO HIS IMPERIAL MAJESTY THE EMPEROR OF JAPAN: Reposing special trust and confidence in the integrity, prudence and ability of Matthew C. Perry, a captain in the Navy of the United States, I have invested him with full power, for and in the name of the said United States, to meet and confer with any person or persons furnished with like powers on the part of your Imperial Majesty, and with him or them to negotiate, conclude and sign a convention or conventions, treaty or treaties, of and concerning the friendship, commerce, and navigation of the two countries; and all matters and subjects connected therewith which may be interesting to the two nations, submitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

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In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Washington, the thirteenth day of November, in the year one thousand eight hundred and fifty-two, and of the independence of the United States of America the seventy-seventh.

MILLARD FILLMORE.

BY THE PRESIDENT:

[SEAL] EDWARD EVERETT,
Secretary of State.

"Narrative of the expedition . . . under the command of Commodore M. C. Perry," Vol. I, p. 259.

TO THE ATTORNEY GENERAL.

[1852, ? Nov.]

DEAR SIR: I have written the enclosed declension adapting it to the message and as you requested send it again for revision. I am not satisfied with it myself and should be happy if you would write one entirely new, instead of revising this.

Truly yours,

MILLARD FILLMORE.

J. J. CRITTENDEN, Atty. General.

Crittenden collection, Library of Congress.

AN APPOINTMENT SOUGHT.

[?1852.]

The undersigned and representatives from the State of New York recommend to the Secretary of the Navy, William Seaver of said State, for the office of Midshipman in the United States Navy, and solicit his appointment whenever a vacancy may occur.

MILLARD FILLMORE.

Collection of Mr. George C. Thomas, Philadelphia.

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CALENDAR OF LETTERS FROM PRESIDENT FILLMORE TO THE SECRETARY OF THE TREASURY

1852.

Apr. 8. To Thomas Corwin, Secretary of the Treasury: Relates to giving commission to the [new] collector at New Orleans. Senator [Salmon W.] Downs [of La.] requests that commission be not issued until after the reading of the President's Message in Congress.

May 8. To Thomas Corwin: Requests information regarding defaulters in service of Treasury Department, asks list of officials behindhand in accounts for past year and not of past quarter alone, and recommendation as to dismissal of, or a further indulgence to each person on list.

13. To Thomas Corwin: Requests that reports on the disbursement of public money be made quarterly, with names of persons delinquent in reporting to the Treasury Department.

June 4. To Thomas Corwin: Requests information regarding the appointment of a Collector of Customs at New Orleans and the conditions existing at that place; a report relative to the conduct of Collector [———] King at San Francisco, and information as to defalcation of the Collector at Astoria.

14. To Thomas Corwin: Encloses letter from "A Clay Whig" of San Francisco complaining against [———] Jones, disbursing agent at that place, and asks report on same.

25. To Thomas Corwin: Encloses letter from David Taylor, presenting claims against the United States Treasury, but the President refuses to interfere in the matter.

July 6. To Thomas Corwin: Relative to appointments. The Governor of California is in Washington and in consultation with him [Fillmore] as to these matters. The President desires list of names of all candidates for offices in the Customs service or in the Mint. [Presumably California candidates, but not definitely stated in letter.]

22. To Thomas Corwin: Endorsement on letter of Secretary as to appeal of Capt. [———] Frazer for restoration to Marine Revenue service. Approves the appeal and recommends favorable action thereon.

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Sept. 2. To Thomas Corwin: Relates to the removal from office of the 2d Auditor, of [official] papers which had been under the custody of John S. Neely; asks for further information.

22. To Thomas Corwin: Relates to claims in case of Charles G. Sherman under Article 9 of the Florida treaty; the President does not feel authorized to set a precedent in the case now presented.

Dec. 2. To Thomas Corwin: Is awaiting the appointment of revenue officers [by the Secretary]; has something to say regarding the report of [? Julius] Rockwell as to patronage.

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ADDRESSES

POLITICAL AND OFFICIAL

1840 TO 1856

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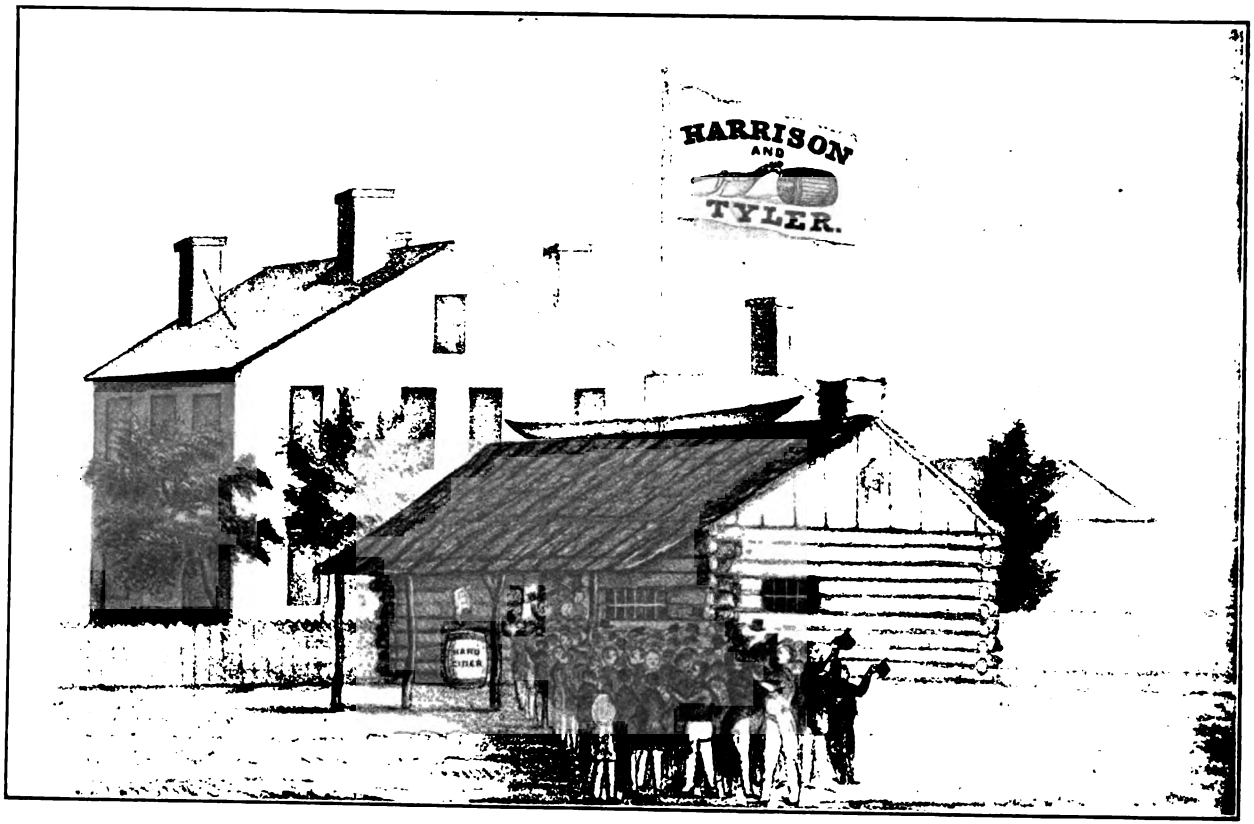

TIPPECANOE LOG CABIN, CORNER OF MAIN AND EAGLE STREETS, BUFFALO.

Erected on the 18th of March, by the Whigs of Buffalo; and Dedicated to the Cause of Harrison and Tyler on the 20th of March, 1840.
Size, 20 Feet by 30 Feet. (Pub. and Lith. by Hall & Mooney.)

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EARLY POLITICAL SPEECHES

No adequate reports are known to exist of several of Mr. Fillmore's earlier addresses. An occasion when his readiness and ability attracted wide notice, was a meeting in the log cabin which the admirers of "Tippecanoe and Tyler too" had erected in Buffalo,[1] in the campaign of 1840. Here, on the evening of October 23d, the Hon. William Patterson of Warsaw was expected to speak on the issues of the hour; but he being detained by bad roads and a slow stage, Mr. Fillmore was called upon to fill the gap. Of his speech the *Commercial Advertiser* of the following day contained only the following inadequate summary:

Mr. Fillmore related many facts and circumstances of which he had been an eye-witness during several of the last sessions of Congress, of Executive dictation and usurpation, and servile obedience on the part of a truckling majority of the Representatives of the people, which excited the deep and just indignation of every freeman present. Matters have got to such a pass at the Federal Capitol, that the friends of the Administration in Congress dare not permit an open and searching investigation into the reeking corruptions of the reigning Dynasty. Mr. Fillmore said our National laws must be very severe on our Federal rulers, as it seemed to compel them, in their present hopeless Sub-Treasury bankruptcy, to sell at auction and at an immense sacrifice their very mechanic tools and implements for constructing public works; while the humane laws of the States, allowed insol-

1. This log cabin stood at the northeast corner of Main and Eagle streets. An old lithograph of it, with the original inscription, is reproduced herewith.

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vent mechanics to retain their tools, exempt from the hammer of the auctioneer, to commence business with again. "But," said the speaker, "Mr. Van Buren doubtless does not expect to have any use for pile-drivers and scows after this season; hence he is selling these articles at one-tenth their cost to replenish an exhausted treasury."

A day or two later Mr. Fillmore spoke at Albion; of that speech we find only the following report. It must have been a remarkable effort, if the summary does it justice (Buffalo *Commercial Advertiser*, October 28th):

Mr. Fillmore spoke for about two hours and a half. He analyzed the Sub-Treasury—showed its origin, character, and consequences upon the people, in the most clear, forcible and convincing manner. Never were the odious features of this "Child of Despotism," more correctly mirrored forth, and never were they made to look more detestable to freemen. It was the happiest and most successful effort, to strip this bantling of Van Buren of its false trappings, and to show it up as the illegitimate offspring of an illicit intercourse with twenty-two prostitute despotisms of the old world, that we ever heard made. And in the name and behalf of the Whigs of Orleans County, we return Mr. Fillmore their hearty thanks for his highly eloquent, argumentative and interesting speech, on the occasion.

NEW YORK WHIG RATIFICATION MEETING, 1844.

Mr. Fillmore was an unsuccessful candidate for Vice-President in the Whig convention at Baltimore in May, 1844. He was not present at the convention, but attended a great ratification meeting in New York City, May 18th, where he was enthusiastically greeted, and spoke as follows:

FELLOW-CITIZENS: This is an unexpected gratification that I have in meeting so many of my Whig friends here, and of having such a welcome from them. When I look over this sea of heads I cannot help being reminded of 1840,

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and of the scenes of 1840; and, although I have not been to Baltimore, I feel that that spirit is revived which carried us so successfully and so gloriously through the scenes of that ever-memorable campaign. It was not my good fortune to participate in the magnificent display of Whigs, Whig feelings and Whig principles, which many of you have witnessed elsewhere, but I have heard the result of their deliberations.

I did not come here to make a speech; I did not till lately expect to be called upon; but as I was about saying, when I heard the nominations made at Baltimore, I knew they must be satisfactory to the people—not to Whigs alone, not to the Whig party alone, but to a large majority of the people, and particularly to those classes whom an ordinary election does not call out to vote. The candidate whom you have selected that *"Justice shall be done"*—he of all others is the man to excite, to strengthen, and to unite the Whigs of the Union. And as for the gentleman whom you have selected for the Vice-Presidency, I think him the very best man you could have got. I stand not here to represent the West, that great section of the State whence I came, and whence come an army of Whigs irresistible in array. I have no right to undertake to represent them; I have no authority delegated to me; but, if I might speak for the man who had never bowed the knee to Baal, I should say that in Theodore Frelinghuysen you have hit upon the man of their heart, and upon the man to whom they will give their cheerful, unbounded support.

Fellow citizens, I cannot talk here. My voice is not able to fill this Park—it is not loud enough to reach the ears of the multitude here. I can promise you that I will do my duty in the campaign that has now begun. I can speak, too, for the Whigs of the West in this respect. They will come out, when the great day of trial comes, with a spirit as stirring as ever fired the bosoms of enthusiastic men, and with a voice as loud, and as resistless, too, as their own Niagara. Let us meet on that day—the East and the West—the City of New York and the City of New York of the West. Buffalo is but New York in miniature. You,

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then, of the Empire City, lead the way and we will follow. Perched on that proud banner over our heads I see the names of Clay and Frelinghuysen—Henry Clay for President, and Theodore Frelinghuysen for Vice-President. Never were better names enrolled together. Never were better men. Be it our duty to ratify at the polls the ratification we are making here.

AS WHIG CANDIDATE FOR GOVERNOR, 1844.

The following September Mr. Fillmore received the Whig nomination for Governor of New York State, but was defeated at the polls by Silas Wright. At a meeting in Buffalo ratifying his nomination, September 13th, Mr. Fillmore spoke, his remarks being preserved only in the following abstract:[1]

He said to be thus honored, not only by the citizens of the Empire State, but by those in whose midst he came a poor and almost friendless boy—to whom he owed all that he was, and all that he expected to be in the future, from whom he had already received the highest testimonials of their confidence in his honor and integrity—language was powerless to express the feelings of his heart which was now overpowered with gratitude. He said, had he consulted his own wishes and pecuniary interests, he should not now occupy the position in which he was placed, but the voice of the State of New York, which was only second to the voice of God, must be obeyed, and should he be elected, he would endeavor to carry out these great and vital principles, which are and ever have been the embodiment of the Whig party and which are essential to the welfare and prospects of our State.

He said he hoped that no friend of his, however warm his attachment might be, would be guilty of any dishonorable act to effect his election; so that when the Whig flag—which is now proudly and fearlessly unfurled, destined in

1. Buffalo *Commercial Advertiser*, September 14, 1844.

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November to float in triumph and victory over a large portion of our Union—so that the joy and happiness that they might experience, would not be marred by an unworthy or a dishonorable reflection. He entreated them to enter the contest with zeal and enthusiasm; but as they valued the sacredness of their cause, and the stability of their principles, to resort to no unfair means: that an honorable defeat was better than a dishonorable victory.

IN PRAISE OF ZACHARY TAYLOR.

The Vice-President-elect being in New York, shortly after the election of 1848, the Whig General Committee waited on him in a body, November 14th, and through the Hon. Philip Hone, chairman of the General Committee, tendered him their congratulations. In reply Mr. Fillmore spoke as follows:

MR. CHAIRMAN: A compliment from a city like yours, the Empire City, not only of the Empire State, but the commercial emporium of our whole common country, could never be properly replied to by me, even if I had time to prepare; but the suddenness of your announcement, and the warmth and heartiness with which you have welcomed me, quite unfit me to make any reply at all. I can only thank you, in my embarrassment; but I am sure it is not to me this tribute is rendered, but to the illustrious man under whose name and whose principles we have achieved the brilliant civil victory that the telegraph for the week past has been sending to us. In that man, and his simplicity, energy and straightforwardness, I have the highest confidence. I have never had the honor of taking him by the hand, or of meeting him face to face, but I have studied well his character, and I feel, therefore, that I know him well; for it is a character plain and open, to be read by everybody, and not of that complex nature that deludes and puzzles the observer.

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I have no doubt that under his Administration you will realize all the high and patriotic expectations that you entertain, and that the country will receive an impetus and a direction, under his honest hands, that will go far, not only to make it flourish, but to make its institutions endure. I look to him with confidence for a restoration of sound republican principles, and for an Administration of honest men; and with him, I am sure, we shall have the government of the popular voice—not the expression of the arbitrary will of one man. What the people demand, the people will have, and upon them will depend the success of the Administration of Zachary Taylor.

Gentlemen, I thank you heartily for the kindness with which you have welcomed me, and I wish you all happiness and prosperity.

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THE OPENING OF THE

NEW YORK & ERIE RAILROAD

The New York & Erie Railroad was opened to traffic from the seaboard to Lake Erie, in May, 1851. The directors invited President Fillmore, his Cabinet and many other distinguished officials and men of affairs, to make a tour over the line. President Fillmore accepted the invitation, as did Mr. Webster and others of his Cabinet. On May 13th the President and party arrived at Amboy, N. J., where they were met by President Loder and other officials of the Erie. They were conducted on board the steamboat Erie, and on the way to New York, Mr. Charles M. Leupp, chairman of the arrangements committee, made an address of welcome to the President and his party, to which President Fillmore responded:

I beg to return to you, dear sir,' and the committee of arrangements, my thanks, and through you, to the Directors of the Erie Railroad Company, for the very cordial welcome you have given me and my associates, on the occasion of my visit to my native State. I assure you that we fully appreciate the great enterprise you have now so happily completed. I know full well the difficulties under which you have labored in the accomplishment of this important work, and it is due to you, as the representatives of the Board of Directors, that the chief officer of the Nation should recognize it. It is the most costly and greatest work of its kind on this continent, and in the world, with one exception. You say that the work is designed to connect Lake Erie with the

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ocean. It is designed to do more—to bind the affections of distant sections in one indissoluble bond of the Union. I need not say that I feel proud of an achievement in my native State which adds dignity and glory and strength to the whole country.

On reaching New York on the afternoon of the 14th, the party disembarked at Castle Garden, and the President was conducted to a platform, where, after a National salute was fired, he was introduced to the assemblage by Mayor Kingsland. Replying to an address of welcome, President Fillmore said:

MR. MAYOR AND FELLOW-CITIZENS: I have neither the voice nor the language to express the grateful emotion of my heart, for this cordial reception of the citizens of my native State. If this be a day on which you have reason to congratulate yourselves, how much more reason have I to do so, the guest of a city which is the grand emporium of the Union, whose commerce whitens every sea, and which is now connected with the last link of the West. I congratulate you, fellow-citizens, that we now stand on consecrated ground. Here in this city the immortal Washington took his oath to support the Constitution of the United States; here the first Congress assembled; and here I see the same city, and patriotism, as bright and as brilliant as they were on that auspicious day. If I could for a moment appropriate these honors, I should be overwhelmed by my feelings; but I know it is not intended for me.

I know that this exhibition of feeling and patriotism is only an evidence of your devotion to your country, and of your loyalty to the Union.

Mr. Mayor, you have done the noble spirits with whom I am associated, no more than justice, in attributing to them all that I have been able to accomplish for the benefit of our common country; and, sir, I beg leave to return to you, and through you, to the citizens of this great city, my most grateful thanks for the kind assistance which they gave me

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under the most trying circumstances—at all times true to themselves, true to the Constitution, and true to the country. I again return you, and them, my most grateful acknowledgments.

The excursionists set out for Lake Erie on the morning of the 14th.[1] At Piermont, the Erie's terminal opposite New York, the President made a brief address, as he did at a few other points on the line. At Binghamton, where a great throng surrounded the train, the President appeared on the car platform and in the course of brief remarks, said:

The poet says,

> "Full many a flower is born to blush unseen
> And waste its fragrance on the desert air."

but this can no longer be said of Binghamton, or of the other flashing villages on the track of a railroad which connects the Atlantic with Lake Erie.

On May 16th President Fillmore and several members of his Cabinet and other distinguished guests arrived in Buffalo by steamboat from Dunkirk. They were received at the wharf by Mayor James Wadsworth, by Maj. Gen. Randall, marshal of the day, and the 65th Regiment, N. Y. State Militia, which acted as escort. A great civic and military procession accompanied the President through the streets. At the Court House Park the Mayor made an address of welcome, to which Mr. Fillmore responded:

1. Probably the best account of this famous excursion is that given by Edward Harold Mott in his book, "Between the Ocean and the Lakes. The Story of Erie," New York, 1899; 4to, pp. 511. A large number of Government and State officials, and other prominent men, were the guests of the railroad company and made the trip either in whole or part, between New York and Dunkirk, the western terminus. Mr. Fillmore was the guest of chief distinction, but popular enthusiasm along the route was equally shown towards him and Daniel Webster. The latter set out on the jaunt "on a flat car, at his own request, a big easy rocking-chair being provided for him to sit on. He chose this manner of riding so that he could better view and enjoy the fine country through which the railroad passed."

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RECEPTION OF PRESIDENT FILLMORE IN BUFFALO.

MR. MAYOR AND FELLOW-CITIZENS: I need not say that I feel grateful for this reception from my friends and neighbors. I am oppressed and overwhelmed by the cordiality—by the unanimity with which you have come to greet me on my return home. It is a reception with which any Roman General, in the palmiest days of the Commonwealth, might have been satisfied. I can hardly persuade myself that it is a reality. It seems more like some hallucination of the mind. But no!—here is the reality, in the thousands of this mighty throng.

I came among you, not many years ago, a friendless boy. For all that I am, for all that I hope to be, for all that I can hope to do for my country, I am indebted to you. And I hope to be permitted to return to you and spend my days with you, and at last to sleep in yonder graveyard and mingle my dust with yours. The tempest-tossed mariner, the merchant who journeys in distant climes in search of wealth, the Californian miner who leaves his home to dig for gold far away, return to their early associates to enjoy the fruits of their labor. So with me. Whatever of honor I may have acquired, whatever of distinction among my countrymen has fallen upon me, would be valueless unless enjoyed with you. But I am aware that all this honor, all this generous enthusiasm, all these marks of respect and confidence, are not intended for me personally. It is the high office, which through an afflicting dispensation of Providence I now fill, that has called forth this spontaneous gathering of thousands. All classes are mingled before me, all political considerations are thrown aside, and I receive this tribute as I did the "Welcome" stretched across your main street—as I did the flowers that were thrown into the carriage as we passed along, as the offerings of patriotism to the high office of Chief Magistrate of the country.

Your Mayor has generously and with general approval referred to my Administration. I was called to my present position by a painful dispensation. It was at a time of great

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peril to the Constitution and to the country. In the course which I have felt compelled, from a firm conviction of duty, to pursue, I am not unaware that I have lost the confidence and support of many whose friendship I highly value. But there was no alternative left me—no other path to pursue, and preserve our cherished institutions, and hand them and their blessings down to posterity. And it is gratifying to know, and it is with pleasure that I am permitted to speak of it, that this spirit was not confined to any class. It is not to me alone, nor to those distinguished gentlemen to whom I owe whatever of success has attended my Administration, that the country is indebted for the happy termination of our difficulties. As partizans we may differ—questions as to the manner in which the Government shall be administered may divide us. But when the Union is endangered—when treason stalks abroad at the South and rears its snaky head at the North, all rally to its support. All classes, all parties forget their differences and make a common cause against the common foe. Distinguished Democrats, one of whom [Senator Douglas, of Illinois] is by my side now, gave me their confidence and support, and came forward nobly in the cause of patriotism to save the Union and the Government. It was then that they stood by me in my humble efforts to preserve the integrity of the Constitution.

Your Mayor has alluded to the measures adopted by the Administration to preserve our neutrality and to prevent the invasion of the territory of a friendly power. In doing what I have, I was but discharging my duty, and acting upon those principles which have governed the policy of the Government from the beginning, in its intercourse with other nations. If we depart from this policy we shall array all the other Powers against us. There is no liberty, no security, without law. The law, whatever it is, must be enforced. If any portion of our people are permitted to rush headlong to the conquest of Cuba, it would weaken or destroy the confidence of other nations in the integrity of our neutrality, and we should soon find ourselves placed

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beyond the pale of international law and international comity. Congress wisely made such invasion of the territory of friendly nations a criminal offence. And I have sworn upon the Holy Evangelists to execute the laws, of all kinds,—I have endeavored to the best of my ability to execute them. I intend to execute them, and, God helping me, I will execute them.

But I did not rise to make a speech. This is not a fitting occasion to dwell upon grave affairs of state. I rise to give vent, fully, to the grateful emotions of my heart. But in the overpowering strength of the feelings, called into action by the scenes around me—by the warm confidence of my fellow-citizens, as shown in the thousands before me—I can but faintly tell you all I feel. When I look upon your familiar faces they seem to me like the faces of brothers and sisters. I again thank you for this reception. I thank you, Mr. Mayor, for the cordiality with which, on behalf of your fellow-citizens, you have welcomed me to this my cherished home.[1]

AT ROCHESTER.

Returning East from Buffalo, President Fillmore reached Rochester on May 20th. There he spoke to a great throng in Washington Square, May 21st, as follows:

Whoever can look upon a spectacle like this unmoved, must be more than mortal. For myself, I thank you from

1. "Never," said the Buffalo *Commercial Advertiser*, in commenting on this tour, "since the tour of Monroe in 1817, has a President been received throughout the country with such hospitable warmth—such universal cordiality and heartiness." Other speakers on this occasion included Secretary Graham of the Navy, Postmaster-General Hall, Governor Hunt and Stephen A. Douglas. The celebration culminated in a wonderful banquet at the Mansion House.

The Common Council of Buffalo had made suitable preparations for the reception of the President and those members of his Cabinet who might accompany him. At a meeting, May 11th, the following telegram was read:

"To the Hon. James Wadsworth, Mayor of Buffalo:

"We shall be in New York on Tuesday. Receive your committee at Dunkirk on Thursday, and leave that evening or Friday morning to visit Buffalo. With many thanks for your proffered hospitality,

"MILLARD FILLMORE."

A municipal reception for the President was arranged for May 16th, the president and directors of the Erie Railroad and the president and trustees of Dunkirk and other western towns being invited to attend.

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the bottom of my heart, for this generous and hearty reception, both to myself and to the distinguished gentlemen, who form a part of my Administration. That flag [pointing to the American flag stretched out before him, and upon which was painted in large letters, "The Union Forever"] speaks for the common country, of which you, fellow-citizens, are a part. I have to thank you again and again, for this welcome to my native State and to my Western home.

You have alluded to the fact, that I have attended the opening of a most important public work, the New York & Erie Railroad. It is one of the most stupendous works in the world, and I rejoice that it is my own native State, which has displayed the zeal, which has been manifested in the completion of this work, and in others which have distinguished our people.

As a general rule, it has been supposed that nations and states alone could accomplish such works as these, but the Erie Railroad has been built at a cost of $23,000,000, and accomplished all of it by the enterprise of individuals in this State. It was a work which excelled in magnitude that begun by the Autocrat of all the Russias, for the road between St. Petersburg and Moscow was commenced anterior to this, and the Erie road is now completed before the Russian road is finished.

The completion of the Erie Canal is another public improvement, to which the Mayor has alluded. This is a work of which the citizens of Western New York and all the citizens west of New York, ought to be proud, and which they all ought to hasten to completion. I have watched the progress of this work from its inception by DeWitt Clinton, down to the present time. I have seen with regret how much capital has been lost from the non-completion of the whole work, from the abandonment of certain parts while in process of completion. Gentlemen, while one lock remains unfinished, or one division uncompleted, it is the loss of the labor and capital which may have been expended in giving a start to the work. The only way to make it profitable is to complete the whole work, and then it will be alike available and valuable to all.

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It has been said that the Erie Canal would be completed before the expiration of another Presidential term. Sincerely was I glad to hear the remark, and whoever may be my successor in office, I hope he may deem the enterprise of sufficient importance to countenance and encourage such a work by his presence.[1]

You have alluded to the humble part I have taken in defence of the Constitution and the Union. I feel, gentlemen, that the highest honor for any success which has attended the measures of my Administration, belongs rather to the distinguished gentlemen called around me for advice. The honor belongs mainly to them.

Regardless of party consideration, when the great public measures of the day were before Congress, they and I acted. They were men selected by me for their wise discretion, and I have been most happy to know that my choice met with the public approval and expectation.

Whatever has been done to avert the public calamity which threatened the country, belongs to men of all parties, who, within Congress and out of it, rallied around the Administration in order to strengthen the arm of Government and maintain the supremacy of the laws.

Again I return you my most cordial and profound thanks for the honor of this most brilliant reception.

At a banquet given at Rochester in the President's honor, some 200 persons attended. The Hon. N. E. Paine proposing the toast: "The President of the United States and his Cabinet," Mr. Fillmore responded. He said in substance, that he felt himself in the midst of friends; he begged all to wait before pronouncing judgment on his course, and "still award me the credit of having been governed by disinterested convictions of duty to my country."

1. A voice in the crowd interrupted him: "That man shall be Millard Fillmore," and this sentiment was loudly cheered.

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WELCOME TO THE FRENCH MINISTER.

A new Minister of France, M. de Sartiges, having arrived at his post at Washington, was received by the President, May 29, 1851, with these words:

SIR: I am happy to welcome you as the representative of France, and to receive from you as such, the renewed assurance of friendship and sympathy on the part of your Government and country towards the United States. Our friendship for France originated with our struggle for a national existence, and was cemented by the mingling of the blood of our revolutionary sires with that of their allies the heroes of France; and, through all the various political changes of your great and enlightened country, a deep sentiment of national sympathy has pervaded this people, rejoicing in your prosperity, and hailing with unaffected delight, your recent advent among the nations of the earth as a sister republic. I beg leave to assure you that nothing shall be wanting on my part to maintain and strengthen the friendly relations which now exist between the two Governments, and to draw more closely the ties which bind them to each other. As one means of accomplishing this desirable object, I again welcome you to our shores as the diplomatic agent of the leading republic of Europe.

LAYING THE CORNER-STONE OF THE CAPITOL ADDITION.

President Fillmore presided at the ceremony of laying the corner-stone for the addition to the Capitol, July 4, 1851. The programme called for no formal address by him, the orator of the occasion being Daniel Webster.[1]

1. In his address on this occasion Mr. Webster, turning to the President, said:

"President Fillmore, it is your singularly good fortune to perform an act such as that which the earliest of your predecessors performed fifty-eight years ago. You stand where he stood; you lay your hand on the corner-stone of a building designed greatly to extend that whose corner-stone he laid. Changed, changed is everything around. The same sun, indeed, shone upon his head which now shines upon yours. The same broad river rolled at his feet, and bathes his last resting place, that now rolls at yours. But the site of this

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AT WHITE SULPHUR SPRINGS.

In August, 1851, President Fillmore sought a brief rest at White Sulphur Springs, Va. Here he was welcomed by the citizens, at a formal reception. To the chairman's greeting the President replied:

MR. CHAIRMAN: I left Washington with the intention of seeking in this beautiful and romantic retreat among the mountains of Virginia a little relaxation from the wearisome round of official labors. I desired a few days to exchange the heat and dust of the city for the cool breezes and health-giving fountains of this delightful region. My intention was to pass quietly along, avoiding all ceremony and all display; but that man must be more or less than human who could be insensible to the flattering attentions and generous hospitality which I have received everywhere since I entered the State of Virginia; and for this most unexpected but cordial welcome, from my fellow-citizens here assembled, I beg leave to return my heartfelt thanks.

I concur with you in the just encomiums which you have been pleased to bestow upon those distinguished gentlemen who forgot party animosities when they saw their country in danger, and nobly rushed to the rescue. I trust that a grateful country will duly appreciate their patriotic efforts and disinterested devotion. To them we are chiefly indebted for the returning peace and quiet that now pervade the country.

You have been pleased to speak of my humble efforts in this great and glorious work. I claim no merit for myself;

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city was then mainly an open field. Streets and avenues have since been laid out and completed, squares and public grounds enclosed and ornamented, until the city which bears his name, although comparatively inconsiderable in numbers and wealth, has become quite fit to be the seat of government of a great and united people. Sir, may the consequences of the duty which you perform so auspiciously today equal those which flowed from his act. Nor this only; may the principles of your Administration, and the wisdom of your political conduct, be such as that the world of the present day, and all history hereafter, may be at no loss to perceive what example you have made your study."

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my duty was a plain one, however difficult it was to perform. I determined from the moment I entered upon the administration of the Government, to take the Constitution and laws for my guide, and, in the execution of the powers confided to me, to know no North, no South, no East, no West, but my country, *my whole country, one and indivisible.*

Having no selfish objects to subserve, I have steadily acted upon this principle, and, next to the approbation of my own conscience, is the gratification which I feel at knowing that it meets the approval of my fellow-citizens.

If any merit be due for the manner in which my Administration has been conducted, give it to those with whom I am associated, who have at all times, and under all circumstances, unitedly stood by me and sustained me in every effort to maintain our glorious Constitution.

I am most happy to meet here the social representatives from so many States. This may well be deemed a social Congress, composed of representatives from all parts of the country—Whigs and Democrats, and ladies, who know no party distinction, but are united in support of our glorious Union. I anticipate much pleasure in my intercourse with such a Congress, and beg leave, most cordially, to unite with you in the expression of the hope that, from this moment forward, during the few days which I shall have the pleasure of remaining with you, all official distinctions may be forgotten, and that we may meet upon the common level in the enjoyment of that unreserved social intercourse which constitutes the highest enjoyment of life. Again I thank you cordially for the very kind and flattering manner in which you have been pleased to receive me as a guest among you.

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NEW ENGLAND VISIT OF 1851

In September, 1851, President Fillmore visited New England, accompanied by Hon. A. H. H. Stuart, Secretary of the Interior, and Hon. C. M. Conrad, Secretary of War. The especial occasion was the opening of new railway lines, connecting Boston with Canada and the West. At Newport, on the 16th, he was welcomed by Lieutenant-Governor William B. Lawrence, then acting Governor of Rhode Island, to whose address the President responded:

REMARKS AT NEWPORT.

I feel most happy in having this opportunity of visiting Rhode Island, a State which, though the last to come into the Union, has ever been among the foremost in sustaining the Constitution, and maintaining the fundamental principles upon which our Republic was founded. Toward her have all eyes ever been steadfastly turned, in the full confidence that her anchor will continue to hold firm and fast.

Later, being waited upon and addressed by committees appointed by the Senate and House of Representatives of Massachusetts, the President replied:

GENTLEMEN: This very unexpected and certainly undeserved compliment on the part of your Legislature in thus sending a committee to welcome me to the bounds of your favored State, I can assure you is deeply appreciated by me.

The occasion you are about to celebrate is one in which I feel a great interest, both personally and politically. In such works as these you now propose to commemorate, we

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all have an immediate concern. And allow me, sir, to remark, that in these very works and enterprises, your State has won a noble and an enviable reputation. She has stretched forth her iron arms and embraced not only the Great West, New Hampshire, and New York, but Vermont and the Canadas. I am glad to see this annexation, although I am not in favor of annexation in a certain sense, because I think we have territory enough. I am, however, in favor of all these enterprises which are instrumental in developing our present almost illimitable resources and extending our commerce. In fostering and building up the advantages we already possess lies, I am inclined to think, our true course. And it is on account of her progress in this path, that I think your city to be especially deserving of commendation. She originated those vast schemes of internal improvement, their private enterprise, which have redounded to her profit and credit and which New York has so successfully emulated and which other cities with a noble rivalship, have not failed to imitate.

AT FALL RIVER.

At Fall River, on the 17th, the President was again met by reception committees. Henry Wilson, President of the Massachusetts State Senate, in a speech of some length, extended to him the official invitation of the Commonwealth. Mr. Fillmore replied:

MR. CHAIRMAN: This unexpected welcome and cordial reception meets a most grateful response in my bosom. I know full well that this reception and these honors are not intended for me personally, but are rather accorded to the public office which it is my duty to fill. As such I receive them; and with more pleasure than if tendered to me personally, because I see in them a guarantee of devotion of Massachusetts to the Union and the Constitution of her beloved country. I rejoice in this event and am most happy to be among you. Deeply did I regret that on a former occasion it was not in my power to accept your gracious invita-

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tion. I am now traveling over what is to me, new country, and am truly gratified to view this flourishing town which has sprung into beauty and wealth, almost in a day, exhibiting in its every structure results of an intelligent and liberal enterprise. Myself and associates are indeed happy to meet you here upon the soil of the Bay State; we know its history and are proud of it as one of the sisters of our Federal Union. It will afford us much pleasure to spend some time with you, and become acquainted with your people, your institutions and your public works. Again I return my heartfelt thanks for the kind attentions you have shown us.

AT DORCHESTER.

At Dorchester, on the way to Boston, the President was again called on to acknowledge the courtesies of the Mayor and local reception committee. He said:

MR. CHAIRMAN: On behalf of myself and associates I return you profound thanks for this cordial greeting. I know that we stand in sight of those heights which defended us in the days past from the despotism of Europe, and I can well understand that I am in the land of those who received a Constitution which they were prepared to defend. As such I accept your welcome.

AT ROXBURY.

The entrance to Roxbury was in an open barouche drawn by six gray horses. An escort was supplied by the National Lancers of Boston and a cavalcade of some two hundred citizens of Roxbury. A thousand children, "all having their dresses trimmed with evergreens," were drawn up in line on Meeting House Hill. There were arches, bands of music, a vast throng, and floral decorations all along the route. To the address of welcome by Mayor Walker of Roxbury, Mr. Fillmore responded:

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MR. MAYOR: Permit me to return to you, and through you as the Chief Executive officer of this City, my thanks for this cordial welcome. I cannot doubt its sincerity. When I see your streets lined with people and strewn with flowers, and behold the bright and joyous eyes turned towards the carriage as we pass, I am sure I am welcome. I regret that time will not permit me to reply properly to your allusion to your sister city. Though not equalling her in population, you have a pleasant location, and present evidences of prosperity and happiness. I have been gratified with much that I have seen since I entered your State, and especially with your common schools, those institutions which supply our youth with education and instill those principles which will lead them, as they succeed us, to receive, support, and maintain the Constitution, the Union and the laws.

IN BOSTON.

The procession passed on into Boston, where bodies of troops gave a military character to this triumphal progress. Surrounded by a squad of artillery, the President listened to the address of welcome by Mayor Bigelow, and responded as follows:

MR. MAYOR: I receive from you, as representative of this proud city, the flattering welcome you offer me, with profound gratitude and deep emotion. You have alluded to the fact that this is the anniversary of the completion of the Constitution, and of the first visit of Washington to this spot. What a contrast is presented now, to the day when the Father of his Country visited you, not to receive your attention and welcome, but to defend you from the despotism and oppression of the Mother Country! If I mistake not, the son of Virginia was appointed Commander-in-Chief of the forces of the United Colonies, and proceeded at once to locate his headquarters in the vicinity of Boston. He made the journey in eleven days, and the people of Dorchester met to congratulate him on the remarkable speed with which he

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had traveled! How is it that that space which Washington by use of an express traversed in eleven days, is now overcome by me as a matter of pleasure in about as many hours? It is because of your intelligent, far-seeing and far-reaching enterprise. You have stretched out your iron arms towards New York, and have laid her under contribution. In every direction is your enterprise impelled by that intelligence which your system of universal education gives to all your people, almost annihilating time and space, building up commerce, facilitating domestic and social enjoyment, securing your own wealth and happiness and doing much for all who surround you.

I rejoice to be among you; I am sure from the welcome with which I have been received that you are a people who will maintain the city and the laws at every hazard. Boston may well be proud of such a military display as this and of the many other evidences of her greatness, which around present themselves on every hand. It only remains for me to return my thanks for the kindness you have manifested towards myself and associates.

At a subsequent reception, replying to an address of welcome by the Governor, Mr. Fillmore said:

GOVERNOR OF MASSACHUSETTS: Under no circumstances could I have received such a welcome as through the Executive head of this great State, without the deepest emotions of gratitude. From the moment that I crossed the line of this great State, it has been one scene of welcome. You have said that your institutions of every kind are open to be inspected by myself and those associated with me; it is gratifying to be permitted to look into the institutions of this State, which is perhaps the most flourishing in the Union. Sir, as I passed through this city I saw your streets lined for miles with multitudes of people; to witness the extreme order that prevailed, I could never for a moment believe that this community could be brought, under any circumstances, to commit treason against the United States.

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Sir, it is my duty, and sometimes it has been a painful one, to execute the laws of this Union against those who did not approve of them. This must be the case with all who occupy the position which I now do; but I see manifest in this community evidence that as far as this city and State are concerned, this duty will hereafter be performed with ease and satisfaction. Sir, I congratulate you on the proud eminence which this State occupies in the great world of internal improvements. You have spread your railroads and invited the commerce of the West and North, and you are now pouring rich tributes into the lap of this great State. May you and those associated with you long enjoy these blessings. You have taught your sister States that, although you do not possess the power of inviting commerce by canals, yet that there is another mode of stretching forth your Briarean arms to the farthest part of the land, and bringing her riches into your State.

Sir, it does not become me to express gratitude for the reception you have extended to those associated with me. They are more capable of doing it for themselves than I am. Permit me, however, to say that I receive this testimony of the inhabitants of Boston and Massachusetts not as a personal respect to myself, but as an evidence of their duty to the Constitution and our glorious Union, and their determination to sustain both.

There were various receptions and much speech-making during the following days of the Boston jubilee, but no more extended addresses by the President. He was the guest of honor, with Lord Elgin, at a great banquet, where the President of the United States was duly toasted. Hastening away before the programme of festivities was concluded, he returned to Washington.

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DISCREET WORDS TO KOSSUTH

On December 31, 1851, the Hungarian patriot Louis Kossuth was presented to the President by Secretary Webster, and Senators Seward and Shields. M. Kossuth read a short address to the President, in which he expressed his gratitude for himself, his associates, and his country, for the encouragement and sympathy shown by our Government toward the Hungarian cause. President Fillmore replied as follows:

I am happy, Governor Kossuth, to welcome you to this land of freedom; and it gives me pleasure to congratulate you upon your release from a long confinement in Turkey, and your safe arrival here. As an individual, I sympathized deeply with you in your brave struggle for the independence and freedom of your native land. The American people can never be indifferent to such a contest; but our policy as a nation, in this respect, has been uniform from the commencement of our Government; and my own views, as the chief magistrate of this nation, are fully and freely expressed in my recent message to Congress, to which you have been pleased to allude. They are the same, whether speaking to Congress here, or to the nations of Europe.

Should your country be restored to independence and freedom, I should then wish you, as the greatest blessing you could enjoy, a restoration to your native land; but, should that never happen, I can only repeat my welcome to you and your companions here, and pray that God's blessing may rest upon you wherever your lot may be cast.

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ON RETIRING FROM OFFICE

At the close of Mr. Fillmore's term of office as President, in March, 1853, his Washington friends gave him a farewell dinner. The Mayor, the Hon. Mr. Maury, in a cordial address, expressed the respect and good wishes of the community toward the President. Mr. Fillmore responded:

MR. MAYOR AND GENTLEMEN: This is an honor which I did not anticipate, and am therefore unprepared to express in suitable language the grateful emotions which it naturally inspires. I can assure you, however, that I feel that I am entitled to the congratulations of my friends at the approaching termination of my official labors and responsibilities. While I shall retire from this exalted station without a single regret, I cannot leave your delightful city, where I have ever been treated with so much kindness and consideration, without feeling a pang of regret at the severance of so many social ties which have been to me sources of unalloyed happiness. If, in the course of my brief Administration, I have been able to accomplish anything to promote the prosperity or add to the attractions of this lovely city, bearing the name of the immortal Washington, this reflection will ever be to me a source of sincere gratification.

This city stands upon a spot recently selected from the wilderness, and consecrated to the exclusive use and control of this great nation, and rendered an attractive object of love and admiration to the whole people. It is the emblem of our union, and should be the pride of every patriot. Acting upon these views, I have cheerfully lent all my efforts to beautify and adorn it, not merely for the sake of the

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residents of the city, but as the object of just national pride, and as a means of strengthening our glorious Union.

With my profound acknowledgments for this signal mark of your respect, and my sincere prayers for the continued prosperity of your city, I bid you an affectionate farewell!

FOR A HOSPITAL IN BUFFALO.

Early in 1854 several citizens of Buffalo interested themselves in the establishment of a public hospital. At a meeting held at the Clarendon Hotel, February 2d, the project was discussed. Mr. Fillmore's share in the deliberations was reported by the *Commercial Advertiser* as follows:

Hon. M. Fillmore wished to know whether this was to be a private institution, or whether it was to be like our other eleemosynary institutions—the Poor House, etc.—supported and controlled by public officers. If the latter, would it not be proper to ask of the Legislature power to levy a tax for the purchase of a site, and the erection of buildings? This he thought was the best plan. All are interested in it—it should be supported by all. If, as has been suggested, it is specially to receive aid from the Government, then the Secretary of the Treasury might wish to have some voice in its management. He has the disposal of the moneys collected from seamen for hospital purposes, and of the appropriations made by Congress for the same object, and it is not expended in private hospitals except in places where there is no public institution. He merely threw out this suggestion as a matter for consideration.

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THE SOUTHERN TOUR OF 1854

In March, 1854, Mr. Fillmore set out from Buffalo on a long tour through the South. He was called on to speak at many of the cities visited. The following reports of his remarks are drawn from the newspapers as indicated, and are usually but a fragment or abstract of what was said.

At Lexington, Kentucky, March 13th, he was given a civic reception, and spoke on two occasions. On the same day he visited Ashland, and the tomb of Henry Clay.

AT FRANKFORT.

March 14th, at Frankfort, among other hospitalities Mr. Fillmore was given a public dinner, at which, in due course, Col. Thomas L. Crittenden proposed "the health of Millard Fillmore, ex-President of the United States." The Frankfort *Commonwealth* reports:

After the rapturous applause with which the sentiment was received had a little subsided, Mr. Fillmore arose and in a few graceful and appropriate sentences acknowledged the honor that was done him upon the present occasion, and expressed the gratification he felt in the kind greeting he had received here, and in fact wherever he had been in Kentucky. In response to Col. Crittenden's complimentary allusion to his Administration, he said a great part of whatever credit it deserved was owing to the assistance of the noble men who sat in council with him, and that in regard to his brief career as President he asked no other favor of friends or enemies, but that its history should be correctly

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written. He concluded with the following sentiment: "Frankfort—the city of picturesque beauty, noble patriotism, and unbounded hospitality."

SPEECH AT LOUISVILLE.

At a public dinner, March 15th, at Louisville, Mr. Fillmore spoke at length. The following report is from the Louisville *Journal* of the 16th[1]:

Mr. Fillmore said on rising that he felt exceedingly embarrassed in being called on, for the first time in his life, to address an audience like the one before him, and that he sincerely hoped there was no "chiel" present "takin' notes," but that what he should utter might be forgotten with the occasion. He was at a loss to understand what motive could have prompted such a great and unexpected expression of regard on the part of the citizens of Kentucky. If he were in the actual possession of the power which it was once his fortune to wield, or even again seeking that position, he might see an object for such a manifestation, but here I am, said he, neither holding nor seeking office, with nothing as a private or public man, which, in my own estimation, should call forth such a testimonial as this. To nothing, said he, can I attribute it but real Kentucky hospitality, which seeks an object whether worthy or not, and lavishes on that object its own generosity.

Mr. Fillmore said that it was his misfortune to be, without his solicitation and certainly against his wishes, called to the administration of the Government. He had not even sought the nomination for the Vice-Presidency, and none could be more surprised than he when he learned that he

1. The *Journal* prefaces its report with the following: "We obtained a full report of the speech made by Mr. Fillmore . . . but in conformity with what we understand to be his wish, we confine ourselves to the publication of a mere sketch of what he said. Judge Nicholas, who was designated by the committee of arrangements to make a speech calling Mr. Fillmore out, dwelt eloquently and powerfully upon the vastly important service which the distinguished guest, as President of the United States in 1850, rendered to the country by his noble stand in favor of the memorable compromise of that year."

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was nominated. It was only ten hours before General Taylor's death that he had any thought that his illustrious friend was in danger. The knowledge came upon him like a peal of thunder from a clear sky. He felt wholly unprepared for the great responsibilities about to devolve upon him. Though he had been for many years a politician, he could say that the only sleepless night he ever passed on account of political anxiety was that on which General Taylor died. His sleeplessness arose from his deep feeling of the weight of duties unexpectedly devolved upon him.

He reviewed during the hours of that night his own opinions and life. He was sensible that he had drunk in with his mother's milk and had cherished from his youth up a feeling, even a prejudice, against slavery. He endeavored to look upon this whole country, from the farthest corner of Maine to the utmost limit of Texas, as but one country, the country that had given him birth. He saw in the gathering clouds in the North and in the South a storm which was likely to overwhelm him, and he feared, his country also, but he took the Constitution and the laws as his only guide. He well knew, that by so doing, he must lose the friendship of many prominent men of the country, especially in his own State, and encounter their reproaches, but, said he, to me this is nothing. The man who can look upon a crisis without being willing to offer himself upon the altar of his country is not fit for public trust.

On the night of General Talyor's death the members of his Cabinet presented to me their resignations. I declined to look at them, first, because I deemed it respectful to the honored dead that I should not consider by what means I was to carry on the Government until he was decently interred, and secondly, because this avalanche of responsibility had fallen upon me unprepared. I desired at least a few hours to reflect on what it was my duty to do. Here was a Cabinet selected by General Taylor, several of them my personal friends, whom I would do anything in my power to serve short of endangering the peace of my country. I knew, however, that their policy was not such as I could

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approve. I saw that the executive power of the Government and the legislative were in opposition to each other, and that, while this state of things continued, peace could never be restored. The question therefore presented itself to me, Shall I retain this Cabinet or select a new one?

The latter course was adopted, but you can scarcely conceive the difficulties of the position in which this decision placed me. When our Presidents are elected, they have three or four months, before taking their offices, to select men suitable to act as heads of department, but this duty came upon me in half a day. I requested the members of the Taylor Cabinet to stay thirty days and so give me an opportunity to look around and select their successors, but they respectfully declined. Thus, while the storm was coming up in the North, and in the South, I was suddenly called to administer the Government without a Cabinet and without time to select one, but, thank God, I was not long in this situation. I was so fortunate as to obtain a Cabinet, the members of which and myself always agreed in opinion; and, in all our acts, we acted together. In that Cabinet your own honored Kentucky was honorably represented.

The great difficulty remained. The question arose, what was to be done? In Texas and New Mexico a civil war was threatened. Texas made preparations to take possession of New Mexico. He felt it his duty to maintain the laws of his country. One of those laws required that the people of the territory of New Mexico should be protected. As a means of protection, he immediately ordered a portion of the army and munitions of war to the frontier of Texas to do duty there. The army was put in motion, and then, and not till then, did Congress act upon the subject. Texas and New Mexico acquiesced in the action of Congress.

Mr. Fillmore spoke of the adoption of the compromise measures of 1850, and especially of the fugitive slave law. This law, he said, had some provisions in it to which he had objections. He regretted the necessity of its being passed at all; but the Constitution required the giving up of fugitive slaves, and it was not for him to decide whether this was a

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wise provision of the Constitution—it was a bargain, it was a compact, he had sworn to maintain it, and he would do so to his last hour. When the bill came to him from the two Houses, in the midst of hurry and confusion and difficulties, he examined it, and a doubt came up in his mind whether it was not unconstitutional as denying the right of *habeas corpus* to the fugitive slave. He referred the question to our accomplished Kentucky lawyer, his Attorney General; he gave his opinion that the law was not a violation of the Constitution, and therefore, said Mr. Fillmore, I gave my signature to the bill, but in doing so, I drew down upon my devoted head, as I knew I should, the vials of wrath from abolitionism and free-soilism.

Mr. Fillmore regretted that he had felt called on to say so much of himself, and went on to speak of those who stood by him in the great struggle of 1850. He said that he would gladly name in that connection many living persons, not Whigs merely, but Democrats, as true patriots as ever lived. This work of pacification, said he, was by no means the work of one man or five men or ten men—the crisis was one in which the true patriots of the nation, no matter what they had been called, Whigs or Democrats, or any other name, rose above all personal and partisan considerations, and looked only to the good of the country. He referred beautifully to the noble parts taken by the illustrious dead, Mr. Clay, Mr. Webster, and the late Vice-President King.

The speaker said that though he had by his efforts in behalf of the compromise lost for a time the confidence of a portion of his fellow-citizens, and especially in his own State, he loved that State as a dear mother, and was unwilling to believe that he had proved a recreant son. He trusted that the excitement of the moment would pass away and that she would at last see that he had at least acted with honest intentions if he had not acted the better part. But, fellow-citizens, said he, let me refer you to your own State. When the gathering tempest of fanaticism, abolition fanaticism, was rolling up from the North, an equally violent tempest of fanaticism, secession fanaticism, was rolling up

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from the South, and where then did the State of Kentucky stand? She stood like a rock amidst the surges of the ocean; she stood firm and unshaken, the pillar of the Constitution.[1]

AT MOBILE.

Proceeding by steamer from New Orleans to Mobile, Mr. Fillmore was met down the bay, April 7th, by a flotilla of excursion boats. On shore a military and civic reception was held, and in the public square the Mayor tendered to Mr. Fillmore the hospitalities of the city.

In response, Mr. Fillmore said he was taken by surprise at the unexpected and brilliant reception tendered him, and at the eloquent remarks of the Mayor welcoming him to the city, and he hardly knew how to reply.

He spoke of having just sailed, for the first time, upon the Gulf of Mexico, and the eagerness with which he looked for a glimpse of the shores of Alabama. The dense fog, however, of the morning prevented this for a long time and he began to despair of obtaining even a view of the city before entering it, when, as if the blessing of heaven, for some reason he knew not, rested upon him in his visit here, the thick curtain that environed them was suddenly lifted, revealing to his admiring gaze the gallant steamers crowded with manliness and beauty, coming to welcome him—the shipping in the harbor, with banners streaming in the wind, and soon the city itself in all its loveliness. He referred very happily to the adventures of De Soto in this State, particularly to his account of the aborigines, whom he pronounced the bravest and most hospitable of men, and the women of the tribe of Mobile the most beautiful of their sex; and said that from what he had heard and witnessed of his white brethren and their wives and daughters, their successors, he thought the mantels of the aborigines had,

1. The report concludes: "His eulogy of Kentucky was exceedingly handsome, and this portion of his speech, like all the other portions, was received with the most enthusiastic applause. Few public speakers ever made so fine an impression upon a Louisville audience as he."

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in these respects, fallen upon them. He then referred to the remarks of the Mayor, respecting his public service, and said that he claimed little credit for the good that was accomplished. When called by a mysterious dispensation of Providence to assume responsibilities from which he would gladly have shrunk, he formed the resolution to take the Constitution for his guide, and no matter with what prejudices or friendships it might conflict, or what it might personally cost him, to do his duty fearlessly to the whole country. He dwelt some time with much feeling and eloquence upon the crisis to which the Mayor referred.[1]

REMARKS AT MONTGOMERY, ALA.

At Montgomery, Ala., acknowledging a reception by the citizens, Mr. Fillmore made some remarks afterwards much quoted by a portion of the press at the North. This speech, April 15th, was reported by the Montgomery *Journal* as follows:

Mr. Fillmore responded in a feeling, appropriate and eloquent manner to the reception which had been extended to him by our citizens. He confessed that he was overpowered by the demonstrations of regard which had met him at every step in his journey through the South. He said that it was more like the triumphal march of a conquering general, than the reception of a private citizen. He felt the more overpowered by the manifestations of regard, because he was satisfied that he did not deserve them. He had only performed his duty, and said that next to the approbation of his own conscience, the assurance that his course received the sanction of the people, was a source of the highest gratification. He alluded to the circumstances which surrounded him when called to the Presidency; the excited condition of the country; the raging storm which had been engendered by opposing factions; to the fact that he had been born and educated in a free State, and as hav-

1. Abstract of speech in the Mobile *Advertiser*, April 8, 1851.

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ing necessarily imbibed prejudices against the institution of slavery; the resolution to examine for himself and take the Constitution for his guide, and rising above all narrow sectional feeling and prejudice, to administer the Government with a strict regard to the rights and interests of every section, North, South, East and West; "but," said he, "I should feel that I had dishonored myself if I had administered the Government for the benefit of the South, at the expense of the North. I did no such thing, but acted honestly and sincerely for the benefit of the whole country." He briefly alluded to his course in regard to the Texas difficulty, which at that time assumed a fearful and threatening aspect; said that he felt it to be his duty to protect the citizens of New Mexico from the threatening invasion of Texas, and while he knew that his course was unpalatable to the South, he believed it to be his sworn duty to protect New Mexicans in accordance with the provision of our treaty stipulations, and he had determined to do so. This, he stated, brought about the compromise measures which had so happily settled the whole controversy.

He alluded to the passage of the Fugitive Slave law as particularly obnoxious to his own section, and said he knew that his approval of that measure would lose him many friends, but the Constitution said that fugitives from labor must be given up; and as he had sworn to support the Constitution, he signed the bill that they should be surrendered. Then came the onerous and responsible duty to enforce the law. We could not know or understand the difficulties which attended the discharge of this duty, but he had sworn to enforce the laws, and he did enforce this, notwithstanding he had been threatened by the fanaticism which raged at the North against it.

AT SAVANNAH.

Mr. Fillmore arrived at Savannah, Ga., April 21st, where he was welcomed in a cordial address by Mayor Ward.

In reply to this address Mr. Fillmore expressed his gratification at the kind welcome with which he was greeted and

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which he had so uniformly received throughout the South, proving as unexpected to him as it was gratifying. He thanked Mayor Ward for his complimentary expressions, though he claimed no merit for anything he had done in his late position, dictated as his course had been, by a single eye to the welfare of our common country.

AT CHARLESTON, S. C.

[In response to the official welcome:]

Ex-President Fillmore, evidently and deeply affected, replied in a most happy manner. He had gratified a long-cherished wish in visiting this ancient and time-honored metropolis, and he had thereby incurred a new obligation, which he had gratefully acknowledged throughout his Southern tour.

The hospitalities and generous welcome he had everywhere received, were none the less grateful to him from the consideration that he could not attribute them to his claims or merits. While serving in the Representative branch of Congress, it had been his pleasure to be associated officially and personally with representatives of South Carolina, and he had often acknowledged the high stand occupied by the State in both branches of Congress. He had been disposed sometimes to attribute this marked pre-eminence to the attention bestowed on education here—at other times he had traced it back to the generous and habitual reliance reposed by the State in her great men—a trait which he considered among the most noble that could characterize any people.

He paid a feeling and touching tribute to the genius, patriotism and purity of our lamented Calhoun (whose statue was overlooking the ceremony of reception), and stated that, whatever differences of opinion had existed as to his measures, none who knew him ever hesitated to accord him these merits in a paramount degree. The tears of the whole Union swelled the tribute which Carolina had dropped on the grave of her lamented son and statesman.[1]

1. Report in Charleston *Courier*, April 27, 1854.

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AT AUGUSTA, GA.

Mr. Fillmore expressed his grateful sense of the kind reception he had met and replied in most appropriate terms to the allusion to his administration of the Government. He referred in complimentary terms to the State and city, their progress, etc., to the monument (in his view) to the memory of the signers of the Declaration of Independence from Georgia, and concluded by repeating his grateful acknowledgments of the many courtesies extended to him.[1]

AT ATLANTA, GA.

At Atlanta, Ga., May 8th, the President made an address of which the following is preserved by the Atlanta *Republican:*

MR. CHAIRMAN, LADIES AND GENTLEMEN: That being who can look upon a scene like the one before me unmoved, must be more or less than human. The cordial welcome which has been so eloquently expressed by you, Mr. Chairman, though it finds a warm response in my heart, cannot be expressed in language. I had heard of Atlanta as a beautiful village, in the center of your State, which had recently sprung into existence—but until I heard the eloquence of the steam whistle, the neighings of the iron horse of your railroads, and looked on the multitude congregated to welcome me, I had no adequate idea of the extent and population of your city. A thousand thanks for the cordial and unexpected welcome extended. And although it may not become me to say a word about your State policy and home affairs, yet I must think if your Legislature, when they come to vote, could look on the fair faces and bright eyes of the beautiful array of female loveliness before me, they would not hesitate to locate the State Capitol at Atlanta. I am hoarse, as you perceive, with much speaking. But I will carry the remembrance of this hour not only to my

1. Report in the Augusta *Chronicle*, April 31st. Mr. Fillmore was at Nashville, May 4th, and spoke, but no report of the address is found.

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Northern home, but to my grave. Accept my grateful acknowledgments for the generous welcome extended to me.

RECEPTION IN NEW YORK.

Arriving in New York City, May 18th, Mr. Fillmore was for some days the recipient of honors. A delegation from the Clay Festival Association visited him at his hotel, and told him they were the surviving members of the Clay Association formed in 1844, "in the day of Mr. Clay's political adversity," and they had always considered Mr. Fillmore as his friend.

Mr. Fillmore briefly responded and said he was taken quite by surprise by this demonstration. He said he had met with many of the friends of Henry Clay during his recent tour, and some who were now his friends, but never before avowed it. During his journey he had visited the home of Mr. Clay, and dropped a tear over his grave. He was happy to see the Clay men of his own State. He did not desire any public reception, but he would be most happy to receive all his friends. He was happy for the enthusiastic reception he had received from the South, but it gave him more satisfaction to be thus welcomed at home. He felt proud of his native State, although he would receive a citizen of Texas or the farthest extremity of the Union with the same cordiality. He did not make these remarks to be published, as it might be thought to be a political harangue. He returned his sincere acknowledgments to all.[1]

A VISIT TO REFORMATORY INSTITUTIONS.

At Randall's and Blackwell's Islands, New York, May 19, 1854, Mr. Fillmore inspected the institutions, and addressed the inmates of the former place:

MY YOUNG FRIENDS: I take great pleasure in visiting this institution at this time, and although I have always been

1. New York *Tribune*, May 19, 1854.

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proud of the charitable institutions of my own State, I had no anticipation of finding here so much intelligence and happiness, and all this high state of discipline and order. When I saw your marching I was particularly struck with the order that prevailed in your ranks. It gave evidence to my mind that you were disciplined rightly, and that you obeyed your instructions, and this was a gratifying thought to me. During my occupancy of the highest public station of the country I have often had occasion to be present at parades and have reviewed many a regiment that did not display half the military order that you did when we met you this morning. Everything seemed in its proper place, and this is the first thing a boy should learn—to do his duty—and then he may expect to rise to usefulness, and perhaps to eminence. I am happy that New York has provided such an institution, and that there is not a place, however high, that each boy in this institution may not aspire to; and I do sincerely hope that we may be spared to see many a boy now here filling the most important offices in this city or even of the United States. This would be a high gratification for me, and would reflect high credit on that noble city that has so wisely provided for your education. I thank you for the pleasure you have given me in witnessing your exhibition.

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A TOUR TO THE WEST

Early in June, 1854, Mr. Fillmore was one of a numerous party who visited Chicago and made a tour over new lines forming a part of the Rock Island railway system.[1] The excursionists reached St. Louis on June 12th, where, as at other smaller places, an enthusiastic reception was given to Mr. Fillmore. Arriving by steamboat, he was met at the levée by Mayor How and other city officials, and there was the usual exchange of complimentary speeches. Later, at the Planters' House, responding to a speech of welcome by Major Uriel Wright, Mr. Fillmore said:

SPEECH IN ST. LOUIS, JUNE 12, 1854.

SIR: I confess I am taken by surprise at this magnificent reception, so unexpected to me. Were I the President of the

1. With Mr. Fillmore on this famous excursion, were the Hon. N. K. Hall, Hon. George R. Babcock, Millard Powers Fillmore and several other gentlemen from Buffalo. New York, Philadelphia and other principal cities were represented. The programme included a trip by steamboat up the Mississippi to St. Paul. At Galena, Ill., Mr. Fillmore, the Hon. John A. Dix and others, made speeches. Mr. Fillmore also spoke, in acknowledgment of receptions tendered him, at Dubuque, Ia., and at St. Paul, Minn., where a grand ball was one feature of the entertainment and Mr. Fillmore addressed the dancers, as did the Hon. George Bancroft. Mr. Fillmore in the course of his speech likened the Mississippi to a tree; the Ohio, the Missouri, the Arkansas, and other tributaries, its branches, with New Orleans at its foot naturally receiving the fruit as it dropped from the tree. "Messrs. Sheffield and Farnam, in building the Chicago & Rock Island Railroad, have set up a great ladder with its base at New York, to bear the fruit safely and securely to another commercial point." A meeting of the excursionists was held, June 9th, on board the steamer Galena, attended by passengers from the Golden Era and War Eagle, on which the Mississippi trip was made, at which Mr. Fillmore presided and spoke, as did others, in acknowledgment of the courtesies they had received from railway and steamboat companies.

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United States, or even a candidate for the Presidency, I could in a measure conceive of the honor which has been so generously tendered me; but I am a private citizen, and come among you as such. You have been pleased to allude to my Administration in terms of commendation; for my official action, I claim no merit, as I determined to faithfully administer the Constitution and laws regardless of all consequences and sectional animosities or prejudices.

I never knew the resources of the Mississippi Valley until my visit to the South. I had often heard of its boundless prairies and its rich lands, so well and peculiarly adapted to the wants and necessities of man; and my visit at this time has peculiarly impressed upon me its great importance. Coming from St. Paul, on this occasion, from the far North, I view St. Louis not only as the commercial emporium of this valley, but the great central city of this Union, the halfway house, it might be termed, between the Atlantic and Pacific seaboards. One thing is yet wanting to complete and fill the measure of our country's glory, and without it our broad lands and great resources will be of no avail: It is, that iron bands, for the purpose of commercial transit and as a conservative element, shall connect the two oceans. We must have a railway across the continent; for without this, we will be, and feel, like the old colonies, that we are too far away from the central power. If we would preserve this Union with all its inestimable blessings, all sections of the country must feel that they are one common brotherhood; and to do this, space must, in a measure, be annihilated, and every part of the country brought in contact and fraternize with each other.

I congratulate the citizens of St. Louis upon their prosperity, and I may be pardoned for drawing a contrast with my own beloved city of Buffalo. A few years since, we equalled you in point of population, and, I say it not in envy, we had some pretensions to being your rival; but you took a sudden leap and are now far ahead of us.

I congratulate you upon your commercial importance—upon the enterprise of a population which, I am told, is now

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near one hundred and twenty thousand—upon the beauty of your public buildings and the taste displayed in the magnificence of your private residences, for I confess I had no conception of these things; and, what is more, from the vast throng that now surrounds me and the volunteers with their glittering uniforms, I see you have the spirit and the military power to defend and protect the city. Once more, allow me to tender to the citizens of St. Louis my heartfelt thanks for this cordial reception; and believe me, I shall ever cherish with gratitude the generous welcome which has been extended to me this day.

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ENTERTAINED IN LONDON

May 17, 1855, Mr. Fillmore sailed for Liverpool. He traveled and rested in Europe for a year, returning to America in June, 1856. Being in London, July 4, 1855, he was the guest of honor at an entertainment given by George Peabody at Willis's famous resort. The following note is from an English source:[1]

The festivities closed with Mr. Fillmore (late President of the United States) rising, and saying he was about to propose a toast, in which he felt sure every one present would, with one accord, join him in drinking. He would propose "The health of our generous host." Mr. Fillmore, with an intonation of voice, that at once attracted the attention of his hearers, described Mr. Peabody as a noble specimen of American enterprise, and of whom his countrymen were justly proud. Transplanted to British soil, he still maintained the characteristics of his country, and cherished for her the fond recollection which he had so generously illustrated on this day of our national independence. With a beautiful allusion, he pointed to the eagle at the end of the hall, and touchingly described his gratification at the opportunity afforded him of meeting so many of his fellow-countrymen on foreign soil. He should always be proud to join

1. "A report of proceedings at an entertainment given on the 4th of July, 1855, by Mr. George Peabody, at Willis's Rooms, London, on the occasion of celebrating the 79th anniversary of the Independence of the United States of America . . . " [London, 1855.] 4to, pp. 4.

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in celebrating the day of our national independence, whether at home or abroad. Mr. Fillmore sat down amidst the most enthusiastic cheering, the band playing "Auld lang syne."[1]

1. Mr. Fillmore and Mr. Van Buren appear to have been in the House of Commons at the same time; for John Bright, in a speech delivered in the House at the time of Mr. Fillmore's visit, said: "Only on Tuesday night the very remarkable circumstance occurred—and I think the House will be of opinion that it is one worth notice—of two of the distinguished men being present listening to the debates in this House who have occupied the position of President of the United States, a position I venture to say, not lower in honor and in dignity than that of any crowned monarch on the surface of the globe," and he passed on to a eulogy of the United States and some survey of its importance.

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